

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY OFFICIALS AND EMPLOYEES

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GENERAL PROVISIONS

§ 30.01 MEETING FOR OATH OF OFFICE.

The Mayor, Commissioner of City Welfare, Aldermen, members of the Board of School Committee and Selectmen shall biennially meet on the first Tuesday of January at 10:00 a.m. for the purpose of taking the respective oaths of office.

('71 Code, § 2-2)

Statutory reference:

Meeting for oath of office required, see R.S.A. 46:4

§ 30.02 BOARD TO EXAMINE VOTES.

The Board of Mayor and Aldermen shall biennially meet on the first Tuesday of December at 7:30 p.m. for the purpose of examining the returns of the votes given in the wards for Mayor and Commissioner of City Welfare.

('71 Code, § 2-3)

Statutory reference:

Examination of votes required, see R.S.A. 45:2

§ 30.03 [RESERVED].

(Previous section repealed on 4-21-98)

§ 30.04 [RESERVED].

(Previous section repealed on 11-4-98)

§ 30.05 OFFICIALS ABSENT FROM CITY.

All salaried officials appointed by the Board of Mayor and Aldermen or by the Mayor shall notify the Mayor before absenting themselves from the city and shall state the length of time of such absence.

('71 Code, § 2-6)

§ 30.06 OBLIGATION OF CITY FOR LEGAL SERVICES.

No city official, department, commission, board, trustee, or other agent of the city shall obligate the city for legal service, without first having secured the authorization of the Board of Mayor and Aldermen therefor. Before such a request is presented to the Board of Mayor and Aldermen, it shall be submitted to the City Solicitor for his opinion and comment.

('71 Code, § 2-7)

§ 30.07 RECORDS RETENTION AND DISPOSITION

(A) *Definitions.*

RECORDS. Information required by ordinance, statute, regulation or administrative rule, in any format, created by or on behalf of the city.

RETENTION means the length of time that the city is required to maintain the record.

(B) Departments, commissions, and all other municipal officers or agencies shall maintain all records and documents, including all incoming and outgoing correspondence, in accordance with current New Hampshire Municipal Records Board Rules.

(C) Records that are described in the New Hampshire Municipal Records Board Rules may be disposed of after they have met the minimum retention period prescribed therein except as provided for elsewhere in this section.

(D) Departments, commissions, and all other municipal officers or agencies, may develop internal Retention Schedules which exceed the standards published in the New Hampshire Municipal Records Board Rules or as may be recommended by the City Solicitor.

(E) Records that may be needed by government agencies for legal actions must be retained for the entire period of the action even if their retention period has passed. The record must be retained for one additional year following the end of the legal action, or the end of the retention period, whichever is longer.

(F) Due to the diversity and rapidly changing functions of municipal government, new types of records may not be covered by the New Hampshire Municipal Records Board Rules. Before disposing of any record not so covered, the City Solicitor shall be contacted to determine if a legal minimum retention period has been established or is recommended, and the City Clerk shall be contacted to determine if there may be sufficient administrative or historical value to merit retention beyond established time periods.

(G) The Committee on Administration may order the loan, deposit, or ownership transfer of archival records or other records of enduring value that are worthy of permanent retention and special management because of the importance of the information they contain for historical or research purposes to another public or private records repository within the city to ensure the proper preservation and public access to these records.

(H) The outgoing Mayor shall deliver all records and documents, including all incoming and outgoing correspondence, belonging to his office or to the city, which are not of a personal nature, to the City Clerk, who shall give him a receipt therefor if desired. And the City Clerk shall be responsible for the retention or disposition of such records as provided for in this section.

(I) A permanent record shall be kept of the identity, inclusive dates, and approximate quantity of records that are destroyed or otherwise disposed of.

('71 Code, § 2-9) (Ord. passed 12-7-71; Am. Ord. passed 9-1-87; Am. Ord. passed 6-4-96)

§ 30.08 [RESERVED].

(Previous section repealed on 12-7-99)

§ 30.09 SALARY OF OFFICERS.

(A) The officers of the city shall receive compensation for all services rendered in salary amounts to be determined by the Board of Mayor and Aldermen.

(B) The salary of city officials providing for a minimum and maximum salary shall be increased periodically by vote of the Board of Mayor and Aldermen when deemed necessary until the maximum salary for a specific office has been granted and approved. ('71 Code, § 2-101 through 2-117)

(C) The Moderators in each ward of the city shall receive for their services and for all the duties appertaining to their office during polling hours, following closing of the polls, and attendance at training sessions, the sum of \$165 per election. Moderators not attending a training session shall be paid no more than \$82.50.

(D) The Ward Clerks in each ward of the city shall receive for their services and for all the duties appertaining to their office during polling hours, following closing of the polls, and attendance at training sessions the sum of \$165 per election. Ward Clerks not attending a training session shall be paid no more than \$82.50.

(E) The Ballot Inspectors in each ward of the city shall receive for their service during polling hours, following closing of the polls, and attendance at training sessions, the sum of \$110 per election. Ballot Inspectors not attending a training session shall be paid no more than \$55.

(F) The Selectmen in each ward of the city shall receive for their services and for all the duties appertaining to their office during polling hours, following closing of the polls, and attendance at training sessions, the sum of \$137.50 per election. Selectmen not attending a training session shall be paid no more than \$68.75.

(G) The Moderators, Ward Clerks, Selectmen and Ballot Inspectors shall be compensated as outlined herein appertaining to their election position. To receive full compensation, such officials shall participate in a training session to be provided by the City Clerk, and perform their respective duties at the polling place of the ward. Officials shall only be compensated for actual time performing their respective duties.

(Ord. passed 6-20-61; Am. Ord. passed 10-15-63; Am. Ord. passed 6-15-65; Am. Ord. passed 8-2-66; Am. Ord. passed 9-5-95; Am. Ord. passed 4-21-98; Am. Ord. passed 8-6-02)

§ 30.10 SALARY OF BOARD OF ALDERMEN.

Each member of the Board of Aldermen shall receive a salary of \$4000 per annum, payable quarterly, for services performed.

(Ord. passed 1-3-00)

§ 30.11 SALARY OF BOARD OF SCHOOL COMMITTEE.

Each member of the Board of School Committee shall receive a salary of \$2000 per annum, payable quarterly, for services performed.

(Ord. passed 1-3-00)

CITY CLERK

§ 30.18 DEPARTMENT ESTABLISHED.

Pursuant to Charter § 3.02 there is established the Office of the City Clerk.

(Ord. passed 11-4-98)

§ 30.19 DEPARTMENT HEAD.

The department head shall be the City Clerk who shall be appointed as provided by Charter § 3.07. The City Clerk shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 30.20 BOND REQUIRED.

The City Clerk shall give a bond for the faithful performance of the duties of his office in the sum of \$10,000, said bond to be approved by the Board of Mayor and Aldermen.

('71 Code, § 2-19)

Statutory reference:

Appointment, see R.S.A. 48:2

Authority of city to prescribe bond, see R.S.A. 47:17(XV)

Clerk pro tem, see R.S.A. 48:7

Custodian of tax invoices and assessments, see R.S.A. 48:5

Deputy, see R.S.A. 48:6

Ex Officio Clerk of Board of Mayor and Aldermen, see R.S.A. 48:3

General duties, see R.S.A. 48:4

Keeping of records, see R.S.A. 48:9

Vacancy, see R.S.A. 48:8

§ 30.21 COMMITTEES.

(A) The City Clerk shall be the clerk of all standing committees for the Board of Mayor and Aldermen, and he shall also act as the clerk of all special committees, including the Joint School Building Committee.

(B) The City Clerk shall attend the sessions of the committees and keep a record of their acts, votes, and proceedings, which record shall be preserved by him as public records of the city, and he shall also perform such other services as clerk that the committee shall require.

(C) The City Clerk shall enter in a separate journal, to be kept for that purpose, and provided with an index, all accepted reports of standing and special committees.

('71 Code, § 2-20) (Ord. passed 5-6-58)

§ 30.22 RECORDATION OF ORDINANCES AND RESOLUTIONS.

The City Clerk shall record all ordinances and resolutions passed by the Board of Mayor and Aldermen.

('71 Code, § 2-21)

§ 30.23 INDEX OF BOARD PROCEEDINGS.

The City Clerk shall keep a marginal and alphabetical index of all the acts, votes, and proceedings of the Board of Mayor and Aldermen.

('71 Code, § 2-22)

§ 30.24 MARRIAGE INDEX.

The City Clerk shall index alphabetically the names of all persons expressing an intention of marriage.

('71 Code, § 2-23)

Statutory reference:

Clerk required to keep chronological record of marriages, see R.S.A. 126:10

§ 30.25 REGISTRATION OF DEATHS.

The City Clerk shall receive, record, and index the following facts concerning the deaths in the city: the date of death, name, sex, race, condition, whether single, widowed, or married, age, residence, occupation, place of birth, names and places of birth of the parents, cause of death, and place of burial of the deceased, and the date of record.

('71 Code, § 2-24)

Statutory reference:

Clerks required to keep chronological record of deaths, see R.S.A. 126:10

§ 30.26 SECURED TRANSACTIONS.

The City Clerk shall, at the time of recording any secured transaction, index it as required by the provisions of R.S.A. Ch. 382-A pertaining to the Uniform Commercial Code.

('71 Code, § 2-25)

§ 30.27 RENTALS OF HALLS AND BUILDINGS.

The City Clerk, under the direction of the Board of Mayor and Aldermen or the committee that the Board of Mayor and Aldermen may appoint, shall have charge of the letting and receiving pay for the halls and buildings of the city, and shall account for and pay to the City Treasurer, monthly, all moneys received for the use of the halls and buildings.

('71 Code, § 2-26)

CITY SOLICITOR

§ 30.38 DEPARTMENT ESTABLISHED.

Pursuant to Charter § 3.02 there is established the Office of the City Solicitor.

(Ord. passed 11-4-98)

§ 30.39 DEPARTMENT HEAD.

The department head shall be the City Solicitor who shall be appointed as provided by Charter § 3.03.
(Ord. passed 11-4-98)

§ 30.40 DUTIES.

The City Solicitor shall serve as legal counsel to the Board of Mayor and Alderman and shall exercise general supervision over departments, boards, commissions and officers to the extent that they perform their duties in accordance with law. The City Solicitor shall do every professional act which may be required of him/her by the city government, or any committee or board thereof, and shall perform such other duties as are prescribed by federal, state or local law.

('71 Code, § 2-37)(Ord. passed 11-4-98)

§ 30.41 DRAFT LEGAL INSTRUMENTS.

The City Solicitor shall draft all bonds, obligations, contracts, deeds, leases, conveyances, and other legal instruments that may be required of him by any ordinance or order of the Board of Mayor and Aldermen or which by any such ordinance or order is requisite and necessary to be done and made between the city and any person contracting with the city, and which by law, usage, or agreement the city is to be at the expense of drawing.

('71 Code, § 2-38)

§ 30.42 FURNISH LEGAL ADVICE.

The City Solicitor shall at all times furnish legal advice to any officer of the city upon any subject touching the duties incumbent on such officer.

('71 Code, § 2-39)

§ 30.43 FURNISH WRITTEN OPINIONS.

The City Solicitor shall, when required by the city government, or any committee or board thereof, furnish a written opinion upon any legal question or subject which may be submitted to him.

('71 Code, § 2-40)

§ 30.44 PROSECUTION OF CIVIL SUITS.

The City Solicitor shall commence and prosecute all suits that may be brought by the city, for or on account of any estate, right, claim, privilege, or demand of the city.

('71 Code, § 2-41)

§ 30.45 DEFENSE OF CITY.

The City Solicitor shall appear in defense, in all actions and suits brought against the city or its officers in their legal capacity, wherein the rights, estate, privileges, ordinances, or acts of the city, or any violation thereof, may be brought in question before any court in this state.

('71 Code, § 2-42)

§ 30.46 ATTEND TAX SALES.

The City Solicitor shall attend all tax sales held in the city and purchase for the city all lands upon which the taxes assessed and due have not been paid and not otherwise sold by the Tax Collector.

('71 Code, § 2-43)

Cross-reference:

Taxation, see Ch. 36

§ 30.47 CRIMINAL CASES.

The office of City Solicitor shall handle complaints filed in the Manchester District Court. The City Solicitor shall be responsible for the prosecution of all offenses against the ordinances of the city and for such offenses against the laws of the state as may be required of him by law.

('71 Code, § 2-44) (Ord. passed 2-15-77)

§ 30.48 RISK MANAGEMENT AND INSURANCE.

Subject to the direction and control of the City Solicitor, the Risk Manager shall be responsible for the administration of the city's risk management and insurance programs contained in §§ 33.090 through 33.096 of

this title.

(Ord. passed 6-27-94)

CHIEF NEGOTIATOR AND CONTRACT ADMINISTRATOR

§ 30.60 POSITION ESTABLISHED.

The position of Chief Negotiator and Contract Administrator (hereinafter “Negotiator”) is hereby established within the office of the Human Resources Department. It shall be subject to the direction and control of the School Committee and Board of Mayor and Aldermen and shall be included within the City Position and Classification Systems.

(’71 Code, § 2-180) (Am. Ord. passed 6-27-94; Am. Ord. passed 6-4-96)

Cross-reference:

Personnel policy, see Ch. 33

§ 30.61 DUTIES.

(A) *Contract negotiation.* The Negotiator shall represent the city in the negotiation of collective bargaining agreements. This shall include all discussions, meetings, mediations, fact findings, or arbitrations and any regulatory or administrative proceeding at any phase of the negotiation process.

(B) *Contract administration.* The Negotiator shall, on behalf of the city, be fully responsible for the administration of all collective bargaining agreements.

(’71 Code, § 2-181) (Ord. passed 4-5-88)

§ 30.62 COOPERATION WITH OTHER CITY DEPARTMENTS AND OFFICIALS.

The Negotiator shall receive the full cooperation of all other city officials and departments. The City Solicitor and the Human Resources Department shall provide support and assistance to the Negotiator upon specific request.

(’71 Code, § 2-182) (Ord. passed 4-5-88)

CHAPTER 31: POLICE DEPARTMENT

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- 31.12 Disposition of fines and forfeitures
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Statutory reference:

Authority of city to regulate police, see R.S.A. 47:17(II)

Police officers, see R.S.A. Ch. 105

GENERAL PROVISIONS

§ 31.00 POLICE DEPARTMENT ESTABLISHED.

- (A) Pursuant to Charter § 3.02 there is established a Police Department.
- (B) *Department head.* The department head shall be the Chief of Police who shall be appointed as provided by Charter § 3.03.
- (C) *Composition.* The Police Department shall also include a Police Commission consisting of five members who shall be appointed as provided by Charter § 3.14, and the Commission shall have those duties and responsibilities as assigned by the Charter.

(D) *Duties.* The Police Department shall be responsible for public safety through the enforcement of city ordinances and state laws and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 31.01 EXECUTION OF ORDINANCES BY POLICE.

The police shall execute and carry into effect all ordinances which shall from time to time be made by the Board of Mayor and Aldermen to prevent unlawful and injurious practices in the streets and other public places in the city.

('71 Code, § 20-2)

§ 31.02 ENFORCEMENT OF LAWS BY CHIEF.

The Chief of Police shall carry into execution within the city the laws of the state and all the ordinances of the city, and shall be vigilant to detect and bring to punishment all violators thereof.

('71 Code, § 20-3)

§ 31.03 CHIEF AND DEPUTY CHIEFS TO SERVE FULL TIME.

The Chief of Police and Deputy Chiefs of Police shall devote their full time to the service of the city and the duties of their offices.

('71 Code, § 20-4)

§ 31.04 CHIEF'S OBEDIENCE TO MAYOR AND ALDERMEN.

The Chief of Police shall obey and execute all the commands of the Board of Mayor and Aldermen relating to the interest or security of the city.

('71 Code, § 20-5)

§ 31.05 CHIEF TO RECEIVE COMPLAINTS.

The Chief of Police shall receive all complaints made to him of any violation of the laws or of any

ordinance of the city.

('71 Code, § 20-6)

§ 31.06 PROSECUTION OF OFFENDERS BY CHIEF.

The Chief of Police shall, in behalf of the city, cause all offenders against the laws and ordinances of the city to be promptly prosecuted before the Manchester District Court.

('71 Code, § 20-7)

§ 31.07 COURT CLERK TO FURNISH FORMS.

The Clerk or Deputy Clerk of the Manchester District Court may furnish all necessary blank writs and other papers to be used for the prosecution of suits and complaints before the court, and sell the same at cost.

('71 Code, § 20-8)

§ 31.08 CHIEF TO PRESERVE PEACE.

The Chief of Police shall, to the utmost of his power, preserve the public peace, and prevent all riots, disorders, and unlawful practices within the city.

('71 Code, § 20-9)

§ 31.09 CHIEF'S DUTIES AT FIRES.

The Chief of Police shall, in case of fire, cause three or more police officers or watchmen to report to the place where the fire may be and there, acting under the direction of the Board of Engineers, to attend diligently to the preservation of the public peace, the prevention of thefts, and the loss or destruction of property; and to prevent all persons from interfering in any manner with the Fire Department.

('71 Code, § 20-10)

§ 31.10 AUTHORITY TO ENTER BUILDINGS FOR SUPPRESSING DISTURBANCES.

The police shall enter any building, for the purpose of suppressing any riot or disturbance therein, and to arrest any person there found making or abetting in such riot or disturbance.

('71 Code, § 20-13)

Statutory reference:

Mob action, see R.S.A. Ch. 644

§ 31.11 COPIES OF REPORTS AND RECORDS BY POLICE.

(A) Unless otherwise prohibited by law, the Police Department is hereby authorized to furnish copies of accident reports, offense reports, photographs of motor vehicle accidents (only after all criminal charges are disposed of by court), to make record check and report (local records only), take fingerprints of individuals on request.

(B) The reports of accidents and photographs shall be furnished only to any person involved or injured in the accident, or his attorney, or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident.

(C) The furnishing of the other reports shall be allowed only to persons having a legitimate interest therefor, and the Chief of Police, or his agent, may refuse any of the above services to any person he has reason to believe may use same for other than legitimate purposes.

(D) (1) For the above service a fee shall be charged as follows:

Copy of accident reports, first page	\$10
Each additional page	1
Copy of offense reports, per page	5
Record check by name (local record only), per name	10
Record check by letter (local record only), per name	10
Fingerprinting of individuals on request, per person	20
Photograph reproduction, only after all criminal charges have been disposed of by court, 8 x 10 enlargements	20
Storage of video recording for civil proceedings	25

(2) No charges shall be made for any service to any governmental agency. The aforesaid charges shall be collected when the service is rendered and a receipt shall be given. All sums collected shall be turned over to the City Treasurer in the same manner as other city funds.

('71 Code, § 20-14) (Ord. passed 4-19-66; Am. Ord. passed 10-6-70; Am. Ord. passed 11-6-80; Am. Ord. passed 3-1-83; Am. Ord. passed 12-17-85; Am. Ord. passed 10-21-86; Am. Ord. passed 6-27-94; Am. Ord. passed 6-9-03)

§ 31.12 DISPOSITION OF FINES AND FORFEITURES.

All fines and forfeitures imposed by the Manchester District Court shall be paid into the city treasury, to

be appropriated to such purposes as the Board of Mayor and Aldermen shall from time to time determine.

('71 Code, § 20-15)

Statutory reference:

Disposition of fines and forfeitures, see R.S.A 618:2

§ 31.13 DISPOSITION OF MONEY RECEIVED BY CHIEF.

If the Chief of Police shall receive any sum of money for any services rendered or act done by virtue of his office, he shall pay over the same to the city treasury monthly, with all sums received of the police officers and of the Deputy Chiefs of Police, and shall at the same time deliver to the City Auditor an account in detail of the different sources from which such money was received.

('71 Code, § 20-16)

§ 31.14 DEPUTY CHIEFS TO DELIVER MONEY TO CHIEF.

If the Deputy Chiefs of Police shall obtain any sum of money for any act done by them by virtue of their office, they shall immediately pay the same to the Chief of Police, and take their receipt therefor.

('71 Code, § 20-17)

§ 31.15 CHIEF TO DESIGNATE HALLOWEEN.

The Chief of Police shall designate the date and hours during which Halloween shall be observed.

('71 Code, § 20-18) (Ord. passed 12-16-80)

STOLEN, LOST, OR ABANDONED PROPERTY

§ 31.30 DELIVERY TO CHIEF OF POLICE.

All property or money taken under suspicion or with knowledge of it having been stolen or feloniously obtained and all property lost or abandoned, that may come into the possession of any member of the Police Department, shall be delivered to the Chief of Police, who shall enter or cause to be entered in a record to be kept by him for that purpose, a detailed description of the same, together with the name of the person from whom received, the names of any claimants thereto, the time of the seizure, and the final disposition thereof.

('71 Code, § 20-28) (Ord. passed 4-19-66)

§ 31.31 PROPERTY TAKEN FROM ACCUSED PERSONS.

When any person arrested shall be adjudged innocent of the offense charged by a court of competent jurisdiction, which shall adjudge that the property or money belongs to such person, the Chief of Police shall thereupon deliver such property or money to him personally, and not to his attorney or agent, and shall take his receipt therefor. If the accused is held for trial or examination, such money or property shall remain in the custody of the Chief of Police until the discharge or conviction of the person accused.

('71 Code, § 20-29) (Ord. passed 4-19-66)

§ 31.32 DISPOSITION WHEN PROPERTY UNCLAIMED.

The Chief of Police, or such person as shall be designated by him, may sell at public auction all unclaimed property that has been in custody for a period of 180 days. He shall fix a day upon which the sale shall take place, and give notice thereof by publication in a daily newspaper. The notice shall state the day and hour when such sale shall commence and shall contain a general description of the property to be sold, or shall refer to a list thereof on file with the Chief of Police. The notice shall be signed by the Chief of Police or by the person designated by him to conduct such public auction. The proceeds of such sale, after deducting the cost of storage, advertising, selling, and other expenses incident to the handling and selling of such property, shall, together with all moneys unclaimed for a period of 180 days, be paid into the city treasury. Money which has been found, as distinguished from money that has been stolen or feloniously obtained, will be turned over to the finder if unclaimed for a period of 180 days. In no case shall any property be sold or disposed of until the necessity for the use thereof as evidence has ceased.

('71 Code, § 20-30) (Ord. passed 4-19-66; Am. Ord. passed 2-17-98)

§ 31.33 PERISHABLE OR BULKY PROPERTY.

If any property seized or taken possession of by the Police Department shall be of a perishable nature, or so bulky or of such nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in § 31.32 of this subchapter, the Chief of Police, upon certifying such fact to the Police Commission and setting forth his reasons why such property should not be retained for the period hereinabove fixed before selling same, shall, with the approval of the Police Commission, cause such property to be advertised forthwith in a daily newspaper of the city, and shall sell such property at public auction at any time after three days have elapsed from the seizure or taking possession thereof.

('71 Code, § 20-31) (Ord. passed 4-19-66)

§ 31.34 DISPOSITION OF WEAPONS, AND THE LIKE.

(A) None of the provisions of this subchapter shall apply to bowie knives, dirks, slingshots, metallic knuckles, or other deadly weapons of like character. All of such weapons, except those that the Chief of Police shall deem to be of use to the Department and retain for the use of the Police Department, shall, within 60 days after their receipt, be destroyed under the direction of the Chief of Police or such person as shall be designated by him. ('71 Code, § 20-32)

(B) (1) The Chief of Police, or such person who may be designated by him may sell at auction to federally licensed dealers all unclaimed pistols, revolvers, derringers, or other deadly weapons of like character, that have been in custody for a period of 60 days, as permitted by state and federal law. He shall fix a day upon which the sale shall take place, and shall give notice thereof by publication in a daily newspaper. The notice shall state the day, hour, and place when such sale shall commence and shall contain a general description of the property to be sold, or shall refer to a list thereof on file with the Chief of Police. Such notice shall be signed by the Chief of Police or by the person designated by him to conduct such auction.

(2) The proceeds of such sale, after deducting the cost of storage, advertising, selling, and other expenses incident to the handling and selling of such property shall be paid into the city general fund.

('71 Code, § 20-33) (Ord. passed 4-19-66; Am. Ord. passed 6-7-88)

CHAPTER 32: BOARDS, COMMISSIONS, AND DEPARTMENTS

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- 32.120 Established
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Human Resources Department

- 32.140 Human Resources Department established

Cross-reference:

Office of Emergency Management, see §§ 92.80 through 92.83

GENERAL PROVISIONS

§ 32.001 STATEMENTS OF POLICY.

City agencies described in Charter, § 8.02 shall adopt required rules and written statements of policy in accordance with the procedures herein provided. Existing policies and rules shall be readopted.

('71 Code, § 2-11) (Ord. passed 9-1-87)

Cross-reference:

Statements of policy, see Charter, § 8.02

§ 32.002 POLICY REVIEW COMMITTEE.

A Policy Review Committee consisting of the Mayor, an Alderman designated by the Aldermen, the City Clerk, City Coordinator, City Solicitor and the Finance Officer is hereby established. The Committee shall prescribe requirements and guidelines as to the format and content of policy statements and rules. The Committee shall review all submissions for compliance with prescribed requirements, for brevity and clarity and shall establish procedures for the compilation and updating of rules and policies.

('71 Code, § 2-12) (Ord. passed 9-1-87; Am. Ord. passed 7-12-90)

§ 32.003 POLICY MANUAL.

The Policy Review Committee shall recommend for the consideration of the Board of Mayor and Aldermen a policy establishing procedures to be followed in adopting policies and in the maintenance of the manual by the City Clerk.

('71 Code, § 2-13) (Ord. passed 9-1-87)

Cross-reference:

Establishment of rules, see Charter, § 8.01

§ 32.004 CONFLICT OF INTEREST.

(A) No member of the Board of Mayor and Aldermen, Planning Board, Zoning Board of Adjustment or any board or commission of the city shall vote, participate in deciding, or sit upon the hearing of any question which the board or commission is to decide if that member has a direct personal and pecuniary interest in the outcome which differs from the interest of other citizens.

(B) When uncertainty arises as to the application of division (A) of this section to a Board member in particular circumstances, the Board shall, upon request of that member or another member of the Board, vote on the question of whether that member should be disqualified. Such a vote shall be advisory and nonbinding, and may not be requested by persons other than Board members.

('71 Code, § 2-14) (Ord. passed 4-5-88)

TRUSTEES OF TRUST FUNDS

§ 32.010 BOARD OF TRUSTEES OF TRUST FUNDS ESTABLISHED.

A Board of Trustees of trust funds is hereby established pursuant to R.S.A. 31:22. All trust gifts, legacies and devises made to the city for public purposes shall be administered by the Trustees. The Board of Trustees of trust funds shall be comprised of five members: the mayor, ex officio, and four other members who shall be appointed by the Mayor and confirmed by the Aldermen for terms of six years. In January of 1981, two members shall be appointed for terms of three years and two members for terms of six years. Thereafter, as their respective terms expire, appointments shall be made in the month of January for six-year terms. Vacancies shall be filled for the unexpired term.

('71 Code, § 2-67) (Ord. passed 8-26-80)

Statutory reference:

Capital reserve funds for cities, see R.S.A. Ch. 34

Trust funds, see R.S.A. 31:22

§ 32.011 FINANCE OFFICER.

The Finance Officer, ex officio, shall be a nonvoting member of the Board and shall under the direction of the Trustees have the care and custody of all funds or legacies under their jurisdiction.

('71 Code, § 2-68) (Ord. passed 8-26-80)

§ 32.012 ELECTION OF BOARD CHAIRPERSON AND CLERK.

The Trustees of trust funds shall elect one of their members as Chairperson, and shall choose a Clerk and make such regulations for their own government and in relation to the officers appointed by them as they may deem expedient.

('71 Code, § 2-69) (Ord. passed 8-26-80)

§ 32.013 ANNUAL REPORTS BY FINANCE OFFICERS AND TRUSTEES

The Finance Officer shall publish each year an annual report showing a statement of receipts and expenditures and condition of the funds in his custody. The statement of the Finance Officer shall be accompanied by a report of the trustees giving in detail their activities during the previous year, together with such suggestions or recommendations as they may deem useful.

('71 Code, § 2-70) (Ord. passed 8-26-80)

§ 32.014 CEMETERY TRUSTS.

With respect to cemetery trusts, the trustees shall not be required to make separate investments of the

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different sums accepted, but they shall apply the income or interest thereof in as equitable a manner as practicable, as follows: first, to keep in suitable and good repair and preservation, the lot of the donor, and monuments, tomb, fences, trees, shrubbery, and soil thereon; second, to buffer the surplus, if any, of such income or interest to accumulate for such time as the trustees may deem expedient.

('71 Code, § 2-71) (Ord. passed 8-26-80)

§ 32.015 TERM TRANSITION.

In order to comply with the City Charter requirement of three year terms and to comply with the staggered terms provision of R.S.A. 31:22, the two Trustees of Trust Funds appointed in 1999 shall be for two year terms expiring January 2001. Thereafter as the respective terms expire, appointment shall be made in the month of January for three year terms.

(Ord. passed 4-6-99)

MUNICIPAL DEPARTMENTS

§ 32.017 DEPARTMENT OF AVIATION ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Department of Aviation.

(B) *Department head.* The department head shall be the Airport Director who shall be appointed as provided by Charter § 3.03.

(C) *Composition.* The Department of Aviation shall also include an Airport Authority of seven members who shall be appointed as provided by Charter § 3.14 and the Authority shall have those duties and responsibilities as assigned by the Charter.

(D) *Duties.* The Department of Aviation shall be responsible for the care, maintenance, and operation of the airport and its related facilities and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 32.018 OFFICE OF YOUTH SERVICES ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established the Office of Youth Services.

(B) *Department head.* The department head shall be the Executive Director of Youth Services who shall be appointed as provided by Charter § 3.03.

(C) *Composition.* The Office of Youth Services shall also contain an advisory board of 15 members who shall be appointed as provided by Charter § 3.14.

(D) *Duties.* The Office of Youth Services shall be responsible for promoting a quick response to the problems of youth utilizing the resources of the community and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 32.019 DEPARTMENT OF PUBLIC BUILDING SERVICES.

The Department of Public Building Services and its duties and responsibilities are hereby transferred to the Highway Department and shall be known as the Building Maintenance Division.

(Ord. passed 11-4-98; Am. Ord. passed 12-7-99)

§ 32.020 DEPARTMENT OF WELFARE ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Department of Welfare.

(B) *Department head.* The department head shall be the Commissioner of Welfare who shall be elected as provided by Charter § 5.01.

(C) *Duties.* The Department of Welfare shall administer and direct public welfare programs, including emergency and continuing assistance programs and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 32.021 MANCHESTER ECONOMIC DEVELOPMENT OFFICE ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established the Manchester Economic Development Office.

(B) *Department head.* The department head shall be the Economic Development Director who shall be appointed as provided by Charter § 3.03.

(C) *Duties.* The Manchester Economic Development Office shall be responsible for promoting the economic prosperity of the city by creating and retaining jobs and increasing the tax base through projects, programs and activities, and shall perform such other duties as are prescribed by federal, state and local law. The office shall also provide staff support to the Manchester Development Corporation and its for-profit subsidiary, the Manchester Development Corporation, Inc.

(Ord. passed 11-4-98)

§ 32.022 LIBRARY DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Library Department.

(B) *Department head.* The department head shall be the Library Director who shall be appointed as provided by a contract dated September 6, 1854 between the city and the Manchester Athenaeum.

(C) *Composition.* The Library Department shall also include a Board of Library Trustees consisting of nine members who shall be appointed as provided by the September 6, 1854 contract between the city and the Manchester Athenaeum, and the Trustees shall have those duties and responsibilities as are assigned by the contract, charter and state law.

(D) *Duties.* The Library Department shall be responsible for the care, maintenance and operation of the Manchester City Library and branch public libraries and its associated educational programs and activities and shall also perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

ARTS COMMISSION

§ 32.025 ESTABLISHED.

An Arts Commission for the city is hereby established.

('71 Code, § 2-84) (Am. Ord. passed 9-7-04)

§ 32.026 APPOINTMENT OF MEMBERS.

The Mayor shall, in the month of September, 1937, nominate five citizens of the city who are qualified in matters of art for the Arts Commission. When the nominations are confirmed by the Board of Mayor and Aldermen, the nominees shall become members of the Arts Commission and hold office until their successors have been elected and qualified.

('71 Code, § 2-85) (Am. Ord. passed 4-16-02; Am. Ord. passed 9-7-04))

§ 32.027 TERM.

The members of the Arts Commission shall be appointed for terms of one, two, and three years respectively from the seventh day in December, 1999, and annually in November, in succeeding years, the

Mayor shall appoint, and the Board of Mayor and Aldermen shall confirm, one person to hold office for three years from the first day of the following December, or until his successor has been elected and qualified.

('71 Code, § 2-86) (Am. Ord. passed 12-7-99; Am. Ord. passed 9-7-04))

§ 32.028 SELECTION OF CHAIRPERSON AND CLERK.

The Arts Commission shall choose one of its members Chairperson and one of its members Clerk.

('71 Code, § 2-87) (Am. Ord. passed 9-7-04)

§ 32.029 MEMBERS NOT COMPENSATED.

The members of the Arts Commission shall serve without compensation.

('71 Code, § 2-88) (Am. Ord. passed 9-7-04)

§ 32.030 EXPENDITURES; REPORTS.

The Arts Commission shall have authority to expend any sums of money which shall be appropriated to it by the Board of Mayor and Aldermen and shall make a report to the Board annually, or whenever it so desires.

('71 Code, § 2-89) (Am. Ord. passed 9-7-04)

§ 32.031 DUTIES.

The duties of the Arts Commission shall be of an advisory character only; to furnish to city officials, boards, commissions, or departments information, advice and counsel, either upon its own initiative or upon request, relative to all matters involving considerations of art in the construction, alteration, and decoration of municipal structures, in the laying out and improvement of parks, highways, and other public spaces, in the design and location of monuments and in the construction and maintenance of all other municipal public works in which aesthetic considerations may be involved, to the end that such public works may possess beauty in the highest practicable degree.

In addition, the Arts Commission shall coordinate and monitor a program which will provide for the display of local artists' work, community or institutional art and/or exhibits, and/or school art, on a rotating basis, in the public area of the City Hall Complex.

('71 Code, § 2-90) (Am. Ord. passed 12-7-99; Am. Ord. passed 9-7-04))

§ 32.032 PURPOSE.

The Board of Mayor and Aldermen hereby recognizes the importance of public art. The intent and purpose of §§ 32.032 through 32.035 is to establish the means to provide for public art as a part of the capital improvement process.

(Ord. passed 12-3-02)

§ 32.033 DEFINITIONS.

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. The City of Manchester Arts Commission.

WORK OF ART. Any site for performing arts, object of historical significance, or work of visual art, including, but not limited to drawings, paintings, murals, frescoes, sculptures, mosaics, photographs, works of calligraphy, etchings, lithographs, prints, and crafts.

(Ord. passed 12-3-02; Am. Ord. passed 9-7-04))

§ 32.034 ART FUND.

(A) Absent specific conditions to the contrary, all gifts of money to the city for works of art accepted by the Board of Mayor and Aldermen or appropriations made by the Board of Mayor and Aldermen for works of art shall be deposited into a nonlapsing fund, the art fund, to be used for the purposes identified in paragraph (D). Nothing in this section or §§ 32.032 through 32.035 shall be construed to require or allow the use of any gifts contrary to any provision of law, the terms of any agreement to which the city is a party, or the terms of the gift.

(B) Monies deposited in the art fund may be used for the following purposes:

(1) The acquisition of works of art for city buildings, facilities, parks, and other city property. Acquisition shall be deemed to include the purchase of existing work of art as well as the commissioning of artists to create a work of art;

(2) The placement, installation, display, maintenance, restoration, or repair of any work of art acquired under this program as well as any existing works of art at municipal buildings and facilities; or

(3) The service of debt arising out of one of the activities identified in subparagraphs (1) and (2).

(C) The Commission may recommend to the Board of Mayor and Aldermen that monies in the art

fund be expended for the purposes set forth in paragraph (B).

(D) Any sums remaining in the art fund at the end of any budget year shall remain in the art fund and may be expended in future budget years in accordance with the terms and conditions set forth in paragraphs (B) and (C).

(Ord. passed 12-3-02)

§ 32.035 EXISTING AGREEMENTS.

Nothing in §§ 32.032 through 32.035 shall be construed to alter or otherwise affect the terms of any existing agreements.

(Ord. passed 12-3-02)

SAFETY REVIEW BOARD

§ 32.040 ESTABLISHMENT; COMPOSITION; TERMS.

There is hereby established a Safety Review Board composed of seven members to be appointed by the Mayor, with the approval of the Board of Aldermen: one member of the Board shall be an Alderman; one member shall be a member of the Board of School Committee; one member shall be a city employee or official representing management; and one member shall be a city employee who is a representative of organized labor. Each of the members shall remain eligible to serve on the Safety Review Board so long as he continues to be an Alderman, School Committee member, city official or employee as the case may be. The remaining three members shall be citizen members and shall be neither city officials nor employees, but shall be knowledgeable and experienced in the field of safety. The Mayor shall designate one of the citizen members as Chairperson. Each member of the Board shall hold office for an indefinite term or until a successor is appointed by the Mayor and approved by the Aldermen.

('71 Code, § 2-129) (Ord. passed 7-13-77; Am. Ord. passed 4-5-88)

§ 32.041 EX OFFICIO MEMBERS.

The Risk Manager and the Fleet Manager shall be ex officio nonvoting members of the Board.

('71 Code, § 2-130) (Ord. passed 7-13-77; Am. Ord. passed 4-5-88)

§ 32.042 DUTIES IN GENERAL.

The Board may investigate or conduct hearings on accidents involving city employees or property. The Board may compel the attendance of any city official or employee at such hearings. It shall attempt to ascertain the nature and preventability of such accidents. The Board shall receive and review such accident reports and statistics as may be provided by or required of the safety and training officer.

('71 Code, § 2-131) (Ord. passed 7-13-77)

§ 32.043 SAFETY REGULATIONS.

The Safety Review Board shall require such city departments and agencies as it sees fit to establish safety regulations for the respective departments or agencies. These regulations shall be in such form as the Board may direct and shall be submitted to the Board for review and approval. The Board may enact such safety regulations as it deems appropriate.

('71 Code, § 2-132) (Ord. passed 7-13-77)

§ 32.044 ENFORCEMENT OF SAFETY REGULATIONS.

It shall be the direct responsibility of each department head to enforce safety regulations applicable to his department. It shall be the duty of the safety and training officer to require that department heads enforce such standards as aforesaid. The safety and training officer shall immediately notify the Safety Review Board if any department head neglects to carry out these responsibilities under this section.

('71 Code, § 2-133) (Ord. passed 7-13-77)

§ 32.045 RULES AND REGULATIONS.

The Safety Review Board shall establish such rules and regulations as it deems necessary to effectuate the purpose of this subchapter, including rules of procedure governing its meetings and conduct of investigations and hearings. The Safety Review Board shall meet monthly and more often as necessary.

('71 Code, § 2-134) (Ord. passed 7-13-77)

CONSULTANT SERVICES REVIEW COMMITTEE

§ 32.055 COMMITTEE ESTABLISHED.

A Consultant Services Review Committee consisting of three members to be appointed by the Mayor is hereby established as a standing committee of the Board of Mayor and Aldermen. The coordinator of resources and development and the Finance Officer shall be advisory members of the Committee and the Finance Officer shall be the Clerk.

('71 Code, § 2-161) (Ord. passed 5-1-79)

§ 32.056 DUTIES.

It shall be the duty of the Consultant Services Review Committee to consider and report on all matters relating to consultant services referred to it by the Board of Mayor and Aldermen, the Finance Committee of the Board of Mayor and Aldermen, or the Mayor.

('71 Code, § 2-162) (Ord. passed 5-1-79)

INFORMATION SYSTEMS DEPARTMENT

§ 32.065 INFORMATION SYSTEMS DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established an Information Systems Department.

(B) The department head shall be the Information Systems Director who shall be appointed as provided by Charter § 3.03.

(C) The Information Systems Department shall be responsible for planning, organizing, and providing information technology services for city departments and agencies and shall perform such other duties as are prescribed by federal, state and local law.

('71 Code, § 2-166) (Ord. passed 10-9-79; Am. Ord. passed 12-27-79; Am. Ord. passed 11-4-98)

§ 32.066 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.067 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.068 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.069 SYSTEMS ADVISORY COMMITTEE AUTHORIZED; COMPOSITION.

To assist and advise the Information Systems Committee in planning and providing data processing services, a Systems Advisory Committee is authorized. The Committee shall consist of the Mayor, who shall serve as Chairperson, a representative of the School Department, and five representatives of major user departments, one of which shall be an agency or department contracting with the city for electronic data processing services, which representatives shall be appointed by the Mayor, confirmed by the Board of Aldermen, and shall serve until their successors are appointed.

('71 Code, § 2-170) (Ord. passed 10-9-79; Am. Ord. passed 12-27-79)

FLEET MANAGEMENT DEPARTMENT

§ 32.080 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.081 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.082 [RESERVED].

(Previous section repealed on 11-4-98)

CENTRAL PURCHASING

§ 32.083 CENTRAL PURCHASING DIVISION.

An Office of Central Purchasing is hereby established within the Highway Department. The Public Works Director shall be responsible for the purchase of motor vehicles for all city departments as provided in § 32.081(B)(1) and for all centralized bidding and contracts for gasoline, diesel and heating fuels. The Public Works Director shall from time to time make recommendations to the Board of Mayor and Aldermen relative to additional procurement and fleet management responsibilities.

(Ord. passed 6-21-94; Am. Ord. passed 4-21-98; Am. Ord. passed 12-7-99)

CONSERVATION COMMISSION

§ 32.090 ESTABLISHED.

The provisions of R.S.A. Ch. 36-A are hereby adopted and a Conservation Commission is hereby established.

('71 Code, § 2-185) (Ord. passed 3-7-89)

§ 32.091 PURPOSE.

The establishment of the Conservation Commission shall be for the declared purpose of developing, protecting, and promoting the natural resources of the city, for promoting an awareness of conservation practices and policies throughout the city, and for protecting the watershed resources of the city.

('71 Code, § 2-186) (Ord. passed 3-7-89)

§ 32.092 COMPOSITION; TERMS.

The Commission shall consist of seven members, all citizens of the city and all appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen. The original Chairperson shall be appointed for a term of three years, three members shall have two-year terms, and three members shall have one-year terms. Appointments of respective successors shall be for three-year terms. The second term Chairperson shall be selected by the members from one of their number. Any member of the Commission so appointed may, after a public hearing if requested, be removed for cause pursuant to the City Charter. A vacancy occurring otherwise

than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

('71 Code, § 2-187) (Ord. passed 3-7-89)

§ 32.093 POWERS AND DUTIES.

The Commission shall have the following duties and perform the following functions:

(A) The Commission shall prepare a program of conservation and a program of watershed and open space protection for the city and in undertaking this program, shall conduct research into local natural resources, watershed areas, and open spaces, along with evaluation of the uses thereof. It shall keep an index of the open areas, swamps, wetlands, and areas of unique natural value or ecological importance within the city. The Commission shall coordinate its efforts with the activities of other official or unofficial bodies conducting studies, research, and evaluations for similar purposes.

(B) The Commission shall prepare, adopt, and from time to time, review and amend, a conservation and open space plan, and shall submit the plan to the Planning Board for consideration as part of the comprehensive plan of the city. In preparation of the plan, the Commission shall also obtain information pertinent to the proper utilization of open areas in the city including lands owned by the state and the city with the exception of land owned by the waterworks and shall make recommendations for the better promotion, development, or utilization of the natural resources and open areas in the city.

(C) The Commission shall adopt bylaws and shall keep accurate records of its meetings and actions and shall file an annual report with the Board of Mayor and Aldermen which shall be in the annual city report.

(D) The Commission may receive gifts of money and property, both real and personal, and may acquire land or an easement in the name of the city, subject to approval of the Board of Mayor and Aldermen. The Commission shall not dispose of city-owned land without a public hearing and approval of the Board of Mayor and Aldermen.

(E) Any monies received by the Commission shall be placed in a conservation fund and allowed to accumulate from year to year and such monies may be expended from the fund for purposes consistent with this subchapter. The city may also make appropriations to the conservation fund. All monies maintained or expended by the Commission shall be recorded in accordance with city accounting procedures, and any matters relating to personnel shall be governed in a manner consistent with the pertinent requirements of the City Charter and appropriate city ordinances.

('71 Code, § 2-188) (Ord. passed 3-7-89)

DEPARTMENT OF ELDERLY SERVICES

§ 32.105 DEPARTMENT OF ELDERLY SERVICES ESTABLISHED; STRUCTURE; DUTIES.

Pursuant to Charter, § 3.01, there is established a Department of Elderly Services, the structure of which shall include an Elderly Services Commission and a department head to be known as the Director of Elderly Services. The Department of Elderly Services shall be responsible for providing services to the elderly population of the city as well as advising the Board of Mayor and Aldermen as to the needs of that population and recommending the policy to be adopted to meet those needs. The Department shall perform such other duties as are prescribed by law or assigned to it by the Board of Mayor and Aldermen.

('71 Code, § 7¾-1) (Ord. passed 10-21-86)

§ 32.106 DEPARTMENT OBJECTIVES.

The Department shall be the principal city agency responsible for mobilizing the human, physical, and financial resources available to assist the elderly population of the community. Subject to appropriation, the Department shall plan, develop, and implement those programs that will best serve the elderly and shall, at all times, be guided by the principle of maintaining the dignity and independence of each member of the elderly population.

('71 Code, § 7¾-2) (Ord. passed 10-21-86)

§ 32.107 ELDERLY SERVICES COMMISSION; COMPOSITION; APPOINTMENT; TERMS.

The Elderly Services Department shall also include an Elderly Services Commission consisting of five members who shall be appointed as provided by Charter § 3.14 and the Commission shall have those duties and responsibilities as assigned by the Charter.

('71 Code, § 7¾-3) (Ord. passed 10-21-86; Am. Ord. passed 11-4-98)

§ 32.108 [RESERVED].

(Previous section repealed on 11-4-98)

§ 32.109 INITIAL APPOINTMENTS.

As soon as practicable after the effective date of this subchapter, five members shall be appointed to the Elderly Services Commission. One shall be appointed for a term expiring January 1, 1988, two shall be appointed for terms expiring January 1, 1989, and two for terms expiring January 1, 1990. Thereafter

appointments shall be made for a term of three years. Initial appointees shall meet as soon as practicable after their selection to appoint the Chair and Clerk as described in § 32.107 of this subchapter. ('71 Code, § 7¾-5) (Ord. passed 10-21-86)

§ 32.110 COMMISSION MEMBERSHIP.

One member of the Elderly Services Commission shall be a representative from organized labor who shall hold a valid union membership at the time of nomination and during his or her term of office. Not more than three members of the Commission shall be of the same political party. Additionally, at least two members shall be at least 60 years-of-age at the time of their appointment to the Commission.

('71 Code, § 7¾-6) (Ord. passed 10-21-86)

§ 32.111 [RESERVED].

(Previous section repealed on 11-4-98)

HERITAGE COMMISSION

§ 32.120 ESTABLISHED.

A Heritage Commission is hereby established in the city in accordance with R.S.A. 673.

(Ord. passed 10-1-96)

§ 32.121 PURPOSE.

In accordance with R.S.A. 674-44-a, the purpose of the Heritage Commission shall be to insure the proper recognition, use and protection of resources, primarily manmade, that are valuable for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural context.

(Ord. passed 10-1-96)

§ 32.122 COMPOSITION; TERMS; VACANCIES.

(A) The Heritage Commission shall consist of seven members who shall be appointed by the Mayor

with approval by the Board of Mayor and Aldermen.

(B) Each Heritage Commission member shall be a resident of the city. One commissioner shall be a member of the Board of Mayor and Aldermen. Where practicable, five alternate members shall be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. In determining each member's qualifications, the Board of Mayor and Aldermen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purpose of the Heritage Commission.

(C) Terms shall be for three years, commencing the first day of July, and staggered in such a way as to allow appointments each year.

(D) In accordance with R.S.A. 673:12, the Board of Mayor and Aldermen shall, within 60 days of a vacancy, cause the appointment of another Commissioner to fill said vacancy for the duration of the unexpired term.

(Ord. passed 10-1-96)

§ 32.123 POWERS AND DUTIES.

In accordance with R.S.A. 674:44-b, the Heritage Commission shall have advisory authority specifically as follows:

(A) Survey and inventory all cultural and historic resources.

(B) Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of historic district ordinances prior to its adoption or amendment as provided in R.S.A. 675:6.

(C) Assist the Planning Board, as requested, in preparation of those sections of the master plan which address cultural and historic resources.

(D) Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources. When information or a recommendation is requested by another board or agency the Heritage Commission shall respond within 30 days.

(E) Coordinate activities with appropriate service organizations and nonprofit groups.

(F) Publicize its activities.

(G) Hire consultants and contractors as needed.

(H) Receive gifts of money in the name of the city, subject to approval from the Board of Mayor and Aldermen, such gifts to be managed and controlled by the Commission for its proper purposes.

(I) Hold meetings and hearings necessary to carry out its duties. Regular meetings shall be held at least four times a year.

(Ord. passed 10-1-96)

§ 32.124 APPROPRIATIONS.

(A) The city having established a Heritage Commission, may appropriate money as deemed necessary to carry out its purposes. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to R.S.A. 674:44-b shall be placed in a heritage fund by the Heritage Commission for its purposes without further approval from the Board of Mayor and Aldermen, except that major expenses beyond normal operations and administration shall require concurrence by the Board.

(B) The city finance officer, pursuant to R.S.A. 41:29 shall have custody of all monies in the heritage fund and shall pay out same only upon order of the Heritage Commission. The disbursement of heritage funds shall be authorized by a majority of the Commission members.

(Ord. passed 10-1-96)

§ 32.125 CONSOLIDATION.

(A) In accordance with R.S.A. 674:44-b III, the Heritage Commission shall assume the duties and powers granted to the Historic District Commission by Article XI of the Zoning Ordinance pertaining specifically to the Amoskeag Corporation Housing Historic District and the Amoskeag Millyard Historic District.

(B) The members of the Historic District Commission shall serve out their terms as members of the Heritage Commission.

(Ord. passed 10-1-96)

HUMAN RESOURCES DEPARTMENT

§ 32.140 HUMAN RESOURCES DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Human Resources Department.

(B) The department head shall be the Human Resources Director who shall be appointed as provided by Charter § 3.03.

(C) The Human Resources Department shall be responsible for the administration of ordinances and statutes relating to employees relations, salary and employee benefits management, the compensation and classification plan, the recruitment, appointment, promotion, transfer, lay off, removal and discipline of city employees, employee training and development and other incidents of city employment and shall perform such other duties as prescribed by federal, state and local law.

(D) Also within the Department of Human Resources shall be the Chief Negotiator and Contract Administrator. The Chief Negotiator and Contract Administrator shall directly consult with and report to the Board of Mayor and Aldermen and the Board of School Committee with respect to the negotiation of collective bargaining agreements.

(Ord. passed 8-5-97; Am. Ord. passed 11-4-98)

CHAPTER 33: HUMAN RESOURCES

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Cross-reference:

Chief Negotiator and Contract Administrator, see §§ 30.60 through 30.62

GENERAL PROVISIONS

§ 33.001 AUTHORITY TO ORGANIZE.

All employees of the city are authorized and empowered to fully and freely associate themselves in organizations of their own choosing for their mutual benefit and advancement.

('71 Code, § 18-1)

§ 33.002 DISCRIMINATION AGAINST ORGANIZATION MEMBERS PROHIBITED.

No employee of the city shall be punished, disciplined, or discriminated against, nor shall his status, position, salary, advancement, or any other rights be affected in any way by reason of his membership in any organizations or his lawful activities therein.

('71 Code, § 18-2)

§ 33.003 WORK STOPPAGE OR STRIKE PROHIBITED.

Any organization representing city employees shall prohibit them from participating in the stoppage or work or in a strike against the city.

('71 Code, § 18-3)

§ 33.004 GRIEVANCE AND SUGGESTION PROCEDURE.

Administrative heads of all departments of the city may establish in their respective department effective machinery whereby grievances, complaints, problems, or suggestions may be presented by the authorized representatives of any organization chosen by the employees to represent them.

('71 Code, § 18-4)

§ 33.005 APPEALS BY NONAFFILIATED EMPLOYEES.

(A) *Applicability.*

(1) The appeal procedure and Appeals Board as defined herein shall apply only to those permanent employees of the city who are not affiliated with a union or who do not have appeal rights under collective bargaining agreements. It shall not apply to department heads.

(2) Appeals to the personnel Appeals Board are limited to actions taken by departments to dismiss or suspend permanent employees or to demote for cause any permanent employee and such appeal may be made only after the employee has exhausted the administrative procedures within their department.

(B) *Personnel Appeal Board.* There shall be a Personnel Appeal Board consisting of five members.

Members shall be appointed by the Mayor with the approval of the Aldermen for a term of three years and shall serve until their successors are appointed and qualified. Vacancies shall be filled for the unexpired term. The Mayor shall designate one member as Chairperson of the Board. Members of the Board shall serve without compensation. No member of the Board shall be a member of any partisan political committee, nor shall hold, or be a candidate for, any remunerative elective public office during their term of office and shall not be otherwise employed in any department of city government. One member of the Board shall be a member of the bar of this state. The Human Resources Director shall be ex officio Clerk of the Board.

(C) *Initial appointments.* Of the initial appointees one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years and thereafter, as appointments expire, all appointments shall be for a three-year term.

(D) *Appeal procedure.* Any permanent employee who has completed an initial probation period who is dismissed, demoted for cause or suspended may within ten work days after the final determination has been made within the department and/or board or commission on such dismissal, demotion, or suspension, appeal in writing to the Board for review thereof. Upon such review, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly. At the hearing of such appeal, the Board may establish reasonable rules of procedure and for the admission of evidence it deems advisable. If the Board finds that the action complained of was taken by the appointing authority on the basis of race, color, national origin, religion, sex, political affiliation, age, or handicap, the employee shall be reinstated to their former position without loss of pay. In other cases of dismissal, demotion for cause, or suspension under the provisions of this section, the Board may reinstate the employee or otherwise modify any order or make such order as it may deem just.

('71 Code, § 18-4.1) (Ord. passed 7-6-82; Am. Ord. passed 3-19-85)

§ 33.006 INTERVENTION OF MAYOR IN DISPUTES.

The Mayor shall have the right to intervene in any dispute between any employee organization and department of the city if he deems it desirable or necessary in the interest of the city.

('71 Code, § 18-5)

§ 33.007 MEMBERSHIP IN STATE RETIREMENT SYSTEMS REQUIRED.

All employees of the city, who are eligible, shall make application for and retain membership in any existing State of New Hampshire contributory retirement system of which he or she is now qualified to become a member; provided, however, that any school teacher who is now employed as such by the city in the public schools shall make application for and retain membership in the State of New Hampshire Teachers Retirement Association, and make the required necessary contribution.

('71 Code, § 18-6)

Statutory reference:

Participation by city officers and employees in state retirement system, see R.S.A. 100-A:20

§ 33.008 PENSIONS AUTHORIZED.

(A) An employee of the city who retains membership in an existing State of New Hampshire retirement system at the time of his or her retirement, and whose annual benefits as received therefrom at retirement, does not annually amount to a sum equal to one-half of their retirement, shall, when annually recommended and approved in accordance with the provisions of present existing pension laws by each respective board, commission, or official now having jurisdiction in such matters, receive annually thereafter, if necessary, from the city, a supplemental pension in an amount, which when added to the annual benefits as received by them from the retirement system will equal, but not exceed, one-half of the basic annual salary which they received for the municipal fiscal year next preceding their retirement, provided, however, that the provisions of this section shall not apply to employees whose retirement becomes effective after December 31, 1975.

(B) Provided that employees hired after June 30, 1972, shall not be eligible for supplemental pensions based on the election of options resulting in reduced payments under the state retirement system.

('71 Code, § 18-7) (Ord. passed 5-17-55; Am. Ord. passed 11-19-57; Am. Ord. passed 12-6-60; Am. Ord. passed 12-17-63; Am. Ord. passed 8-3-71; Am. Ord. passed 2-1-72; Am. Ord. passed 5-15-73; Am. Ord. passed 11-12-74)

§ 33.009 CONTINUANCE OF PENSIONS UPON APPROVAL.

All municipal pensions granted and approved prior to December 31, 1945, and in full force and effect as of that date shall be continued when approved annually in accordance with the provisions of the present laws governing the granting and payment of same.

('71 Code, § 18-8)

§ 33.010 DENIAL OF PENSIONS.

No application for a pension made in accordance with the provisions of existing local pension acts will be considered or approved if submitted by an employee of the city who is eligible for membership in any existing State of New Hampshire retirement system and who neglects to retain membership in such a retirement system on or before the expiration date as provided for this purpose in the act governing the operation of the retirement system.

('71 Code, § 18-9)

§ 33.011 RETIRED EMPLOYEES; POLICY ON REHIRING.

Individuals who have retired from the city service and who are receiving payments from any city retirement or pension plan shall not be reemployed in any city department for more than 29 hours a work week regardless of the funding source. Such part time employees shall not be eligible for any benefits or leave time whatsoever.

('71 Code, § 18-10) (Ord. passed 12-5-72; Am. Ord. passed 2-18-03)

§ 33.012 MAINTENANCE OF PLANS.

(A) *Responsibilities of the Human Resources Director.* The Human Resources Director or the Human Resources and Insurance Committee shall be responsible for the maintenance of the classification and compensation plans, including but not limited to the allocation of new or changed positions, the determination of proper compensation rates within the provisions of this chapter, maintenance of up-to-date class specifications, class lists, and allocation records, and the preparation of recommendations to the Board of Mayor and Aldermen on revisions to the plans on the basis of changes in duties of positions and in prevailing rates of pay for comparable occupations outside the city service. The Human Resources Director shall develop and implement procedural guidelines for the administration and maintenance of the classification and compensation plans, provided that such procedural guidelines shall conform to all of the requirements and provisions of this chapter. The Human Resources Director may designate members of the Human Resources Department staff to carry out any of the duties and tasks referenced herein, but the responsibility for such duties and tasks shall rest with the Human Resources Director.

(B) *Adjustments to the pay schedule.* The weekly and hourly rates for different classes of positions which are prescribed in the compensation plan shall be changed only upon recommendation of the Human Resources Director or the Human Resources and Insurance Committee and Finance Committee and amendment by the Board of Mayor and Aldermen. Such changes as required may be made annually to become effective on the first day of each fiscal year or at shorter intervals as justified by circumstances. Changes in the compensation plan shall be made in a manner to maintain proper percentage relationships among the classes of positions and to reflect changes in prevailing rates of pay for comparable positions outside the city service.

(C) *Employee request.* Any employee shall have the right to the consideration of any request he may have with respect to the application of the classification and compensation plans to his position. The employee shall initially make his request to the department or office head who shall promptly seek to arrive at a solution which is consistent with the plans and acceptable to the employee. Where the department or office head is unable to resolve such a request in a manner that the employee is willing to accept in writing, the matter shall then be submitted to the Human Resources Director and, if necessary, to the Human Resources and Insurance Committee for a solution which is consistent with the plans.

('71 Code, § 18-64) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 11-4-98)

POSITION CLASSIFICATION PLAN

§ 33.020 CLASSIFICATION PLAN DEFINED.

The classification plan shall consist of the occupational list of classes, a class code, and a class grade for each class with the class specifications therefor, and the allocation records identifying each individual position with the appropriate class.

('71 Code, § 18-20) (Ord. passed 6-14-67)

§ 33.021 SCHEDULE OF CLASSIFICATION PLAN.

The schedule of the classification plan shall be filed in the office of the Human Resources Director.

('71 Code, § 18-21) (Ord. passed 11-4-98)

§ 33.022 POSITIONS NOT COVERED BY CHAPTER.

(A) The provisions of §§ 33.020 through 33.082 of this chapter shall not apply to elected officials, members of appointed boards and commissions, the secretary, and the administrative assistants to the Mayor.

(B) Certificated employees of the school system shall be exempt from the provisions of all but those sections of §§ 33.020 through 33.082 of this chapter in which they are specifically included.

(C) Limited term appointments shall consist of appointments to positions which are funded for a limited period of time or for an indefinite period. Limited term appointees shall have the same privileges as regular employees with the exception that their services will be terminated conterminously with the termination of funding for the positions they occupy.

(D) The provisions of §§ 33.020 through 33.082 of this chapter shall not apply to elected officials, including the Commissioner of Welfare.

('71 Code, § 18-22) (Ord. passed 6-14-67; Am. Ord. passed 11-12-69; Am. Ord. passed 10-21-86; Am. Ord. passed 12-17-91; Am. Ord. passed 11-4-98)

§ 33.023 CONTRACTS NOT AFFECTED.

None of the provisions of §§ 33.020 through 33.082 of this chapter shall amend or modify any existing legal and binding contract between the city and employees' groups unless or until such contracts are

renegotiated to conform with the provisions of §§ 33.020 through 33.082 of this chapter.

('71 Code, § 18-23) (Ord. passed 6-14-67)

§ 33.024 CLASSIFICATION OF POSITIONS.

All positions in the service of the city, except those listed in § 33.022 of this subchapter shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties and responsibilities so that similar requirements as to training, experience, knowledge, skill, and the same rates of compensation are applicable thereto.

('71 Code, § 18-24) (Ord. passed 6-14-67)

§ 33.025 COMPENSATION OF POSITIONS.

All positions in each class shall be compensated in accordance with the class grade for each class as set forth in the schedule of the classification plan and at the rates of pay for such class grade as set forth in the schedules of the compensation plan.

('71 Code, § 18-25) (Ord. passed 6-14-67)

§ 33.026 CLASS SPECIFICATIONS.

(A) Class specifications, which state the main characteristics of the class, give examples of typical duties performed in positions of the class, and establish the desirable qualifications required for successful performance in such positions, shall be prepared and maintained for all classes.

(B) The class specifications shall be descriptive and explanatory but not restrictive. The listing of particular examples of duties shall not preclude the assignment of other duties by the department heads concerned.

(C) A class specification shall be considered in its entirety and in relation to other class specifications in determining the class to which a position should be allocated.

(D) Nothing contained in the city's class specifications shall be interpreted to screen out or exclude qualified candidates for employment in the city service on the basis of race, ethnicity, religion, age, physical or mental disability or other forms of illegal discrimination. With regard to physical or mental disabilities, it is the intent of the city that all class specifications be interpreted to require only those abilities required to successfully perform the essential duties and responsibilities of the class.

('71 Code, § 18-26) (Ord. passed 6-14-67; Am. Ord. passed 11-4-98)

§ 33.027 EMPLOYEE RECRUITMENT AND SELECTION.

In order to implement recruitment and selection requirements of the city's affirmative action program and to insure that employment practices shall be open and competitive, the following procedures shall be followed in the recruitment and selection of employees covered by §§ 33.020 through 33.082 of this chapter:

(A) The recruitment of candidates and the referral of job applications shall be centrally coordinated through the Human Resources Department.

(B) When a job vacancy occurs in any department, the department head shall promptly notify the Human Resources Department.

(C) No interview or final action on any existing or potential candidate shall occur prior to notification of the Human Resources Department or prior to the forwarding of applications as provided in division (F) of this section.

(D) The Human Resources Department shall upon notification of any vacancy, post notice of such job opportunity within the department where the vacancy exists for a period of five working days. Those individuals that are interested in applying for the vacancy shall submit a completed application to the Human Resources Department within the five working days. Qualified applicants will be referred to the Department Head for his/her review and consideration. If no departmental employee applies for said vacancy or if no departmental employee is selected for the vacancy, the Human Resources Department shall post notice of such job opportunity at a minimum of three conspicuous public places. The Human Resources Department shall conduct a special notification effort to be directed to minority organizations.

(E) The Human Resources Department shall, through paid advertisements, publicize city employment opportunities and procedures and shall place specific advertisements for each professional, administrative, and technical job opening.

(F) The Human Resources Department shall forward the applications of all qualified applicants on file to the appropriate department for screening, selection and appointment. The Human Resources Department may make written comments on applicant qualifications, but the department wherein the vacancy exists shall be the final judge.

(G) The Human Resources Department shall keep a record of all notices, candidate referral, and other such information as the Human Resources Director deems advisable including information on sex and minority status.

(H) The appointing authority on filling a job vacancy shall notify the Human Resources Department, on such standardized form as may be developed by the Human Resources Department, of the candidate selected, of applicants interviewed, of the basis of selection and such other information as is required on the form.

('71 Code, § 18-30) (Ord. passed 12-27-79; Am. Ord. passed 8-13-85; Am. Ord. passed 11-4-98; Am. Ord. passed 4-16-02)

§ 33.028 VACANT POSITIONS.

(A) Except for positions listed in § 33.022(A) and (B) and positions which become vacant due to death or discharge, no vacant budgeted position shall be filled without the approval of the Human Resources Director.

(B) Requests to fill vacant positions shall include justification and shall be submitted to the Human Resources Director. The Human Resources Director shall investigate the need of filling positions and the impact upon services to the public if positions are left vacant.

(C) In order to expedite the filling of authorized positions, the Human Resources Director is hereby authorized to begin the recruitment and screening of applicants at the time the requisition is received; provided, however, that appointment to such position cannot occur until after the Human Resources Director has approved filling the position. The Human Resources Director will notify the Human Resources and Insurance Committee of all approved positions on a monthly basis.

(D) In the event a request to fill a vacant position is not approved by the Human Resources Director, such request shall be submitted to the next regular meeting of the Human Resources and Insurance Committee. Actions of the Human Resources and Insurance Committee shall be reported to and subject to review by the Board of Mayor and Aldermen.

('71 Code, § 18-31) (Ord. passed 9-1-81; Am. Ord. passed 8-7-84; Am. Ord. passed 9-3-96; Am. Ord. passed 11-4-98)

COMPENSATION PLAN

§ 33.040 COMPENSATION PLAN DEFINED.

The compensation plan shall consist of the schedules of salaries and hourly rates as set forth in the schedules of the compensation plan and the provisions of §§ 33.020 through 33.082 of this chapter on the administration thereof, together with the provisions herein on benefits and working conditions.

('71 Code, § 18-27) (Ord. passed 6-14-67)

§ 33.041 SCHEDULES OF COMPENSATION PLAN.

The schedules of the compensation plan shall be filed in the office of the Human Resources Director.

('71 Code, § 18-28) (Am. Ord. passed 11-4-98)

§ 33.042 SALARY OR WAGE INCREASES LIMITED BY APPROPRIATIONS.

No provisions of §§ 33.020 through 33.082 of this chapter shall be construed as authorizing any increase in salary or wage during a fiscal year which would result in exceeding appropriations made for such purpose.

('71 Code, § 18-29) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67)

§ 33.043 COMPENSATION PLAN BASED ON SCHEDULES.

(A) The pay of city employees occupying positions covered by §§ 33.020 through 33.082 of this chapter shall be on the basis of appropriate schedules of annual, weekly, or equivalent hourly rates as prescribed in the schedules of the compensation plan for the respective classes of positions.

(B) For each class grade, an annual, weekly and hourly salary range is hereby established which shall consist of an entrance rate, intermediate rates, and a maximum rate comprising the base rates for the class grade, and longevity rates.

('71 Code, § 18-33) (Ord. passed 6-14-67; Am. Ord. passed 11-4-98)

§ 33.044 BASIS OF SALARY RATES FOR FLSA EXEMPT EMPLOYEES.

(A) The annual, weekly and hourly rate prescribed in the schedules of the compensation plan are based on full-time employment on the basis of 40 hours per week and 52 weeks per year for the respective classes of positions as set forth in the schedule of the classification plan; provided, however, that the salaries of positions designated as administrative, executive or professional exempt under the Fair Labor Standards Act (FLSA) are fixed according to the responsibilities to be fulfilled and are not based on a fixed number of hours of work per week and shall not be adjusted with variations in work schedules, unless part-time employment is specifically provided and/or unless otherwise approved by the Mayor and Human Resources and Insurance Committee. Employees in positions designated as FLSA exempt and whose normal work week is less than 40 hours per week and whose normal work year is less than 52 weeks per year shall have their pay and authorized sick leave and vacation time prorated to coincide with the actual hours and actual weeks they are assigned to work per year.

(B) All regular, permanent, full-time salaried employees shall be paid the weekly salaries prescribed in the schedules of the compensation plan for their respective classes of positions.

(C) Salaries of temporary, seasonal, or part-time employees shall be determined as provided in §§ 33.062, and 33.063 of this subchapter.

('71 Code, § 18-34) (Ord. passed 6-14-67; Am. Ord. passed 11-4-98)

§ 33.045 BASIS OF PAY RATES FOR FLSA NON-EXEMPT POSITIONS.

Any employee in a class of position indicated as “hourly basis” or FLSA non-exempt in the schedule of the classification plan shall be paid hourly rates prescribed herein for the respective class of position for time actually worked, and for authorized sick leave, vacation, and holiday time, all of which shall be based on the normal working hours established by the department head with the approval of the Human Resources Director or the Human Resources and Insurance Committee of the Board of Mayor and Aldermen.

('71 Code, § 18-35) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 11-4-98)

§ 33.046 ENTRANCE PAY RATES.

(A) *Starting rate on initial employment.* Original appointment to any position shall be made at the entrance or minimum rate of the pay grade and advancement from the entrance rate to the maximum rate within a pay range shall be by successive steps. Upon recommendation of the department heads and the Human Resources Director, or the Human Resources and Insurance Committee, the Mayor may approve initial compensation at a higher rate than the minimum rate in the pay range for the class when the needs of the service so require; provided that any such exception is based on the outstanding and unusual character of the employee's experience and ability over and above the qualification requirements specified for the class, or that a critical shortage of qualified applicants exist. In the latter case, any incumbents in the same class performing identical duties and receiving a lower rate shall have their rates increased to the rate established for entrance of new employees.

(B) *Starting rate on return to duty.* When an employee returns to duty in the same class of positions after a separation from the city service of not more than one year, which separation was not due to discreditable circumstances, such employee shall receive a rate of pay that is within the approved pay grade for the class.

(C) *Starting rate on return from military service.* Any employee who holds a position that is expected to continue indefinitely or for a significant period of time, and who is a member of the National Guard or of a reserve component of the armed forces of the United States or who leaves employment and enlists in the military within 90 days from termination from employment from the city, shall be entitled to military leave when such duty is in conflict with the employee's regular work schedule. Under the Federal Uniform Services Employment and Reemployment Rights Act of 1994, any reservist, member of the National Guard or military who is returning from active duty lasting five years or less with an honorable or general discharge, shall be guaranteed a position equivalent to the position that the employee vacated to perform the active duty unless the re-employment causes an undue hardship to the city pursuant to U.S.C. 4312(d). The returning employee shall be placed in a step that he/she would have attained had he/she not been on active duty.

(D) *Starting rate in new positions.* Whenever an employee is assigned to duty in a position not previously held by him, and such change is in the nature of a transfer and not in the nature of a promotion and the position is in the same pay grade as the position currently held by the employee, the employee shall receive no increase in pay but shall remain in the current step and shall be eligible for a step increase on the employee's

anniversary date just as if the employee had been working in the current position.

(E) *Rate of pay on promotion.* In any case where an employee is promoted to a class with a higher pay grade, the employee's pay shall be increased to at least the minimum rate for the higher class, but such increase shall be no less than 10% of the employee's current pay. In the case of overlapping pay grade ranges, the promoted employee shall be increased to the step immediately above the employee's current pay, but such increase shall be no less than 10% of the employee's current pay. If the employee refuses the promotion, the Human Resources Director may approve an additional pay step increase. If the employee still refuses the promotion, the Human Resources and Insurance Committee may approve two additional pay step increases. If the employee still refuses the promotion, the Mayor may approve additional step increases as provided in § 33.046 above. Advancement to the maximum rates subsequent to promotion will be on the same basis as described in § 33.048 of this subchapter. Effective dates for promotions shall be the first work day following approval of the promotions.

(F) *Rate of pay in cases of voluntary transfer to a lower pay grade.* When an employee takes a position at a lower salary grade, the employee shall be demoted to the lower grade based upon his/her years of service. However, if the years of service result in the employee receiving a step which compensates the employee at a higher rate of pay than prior to the demotion, said employee shall be placed in a step in the lower grade that does not exceed his/her level of compensation prior to the demotion.

(G) When an employee's position is reclassified to a higher salary grade, the employee shall be placed in the new grade at a step that would provide an increase equaling at least one annual merit step increase in the former salary grade. If an employee's position is reclassified to a lower salary grade, the employee shall be placed at a step in the lower grade based upon his/her years of full time employment. However, if the years of full service result in the employee receiving a step which compensates the employee at a higher rate of pay than prior to the reclassification, said employee shall be placed in a step in the lower grade that does not exceed his/her level of compensation prior to the reclassification.

('71 Code, § 18-36) (Ord. passed 6-14-67; Am. Ord. passed 4-19-88; Am. Ord. passed 11-4-98; Am. Ord. passed 9-4-01; Am. Ord. passed 11-7-01; Am. Ord. passed 8-6-02; Am. Ord. passed 2-18-03; Am. Ord. passed 3-18-03)

§ 33.047 PROBATIONARY PERIOD.

After initial appointment or promotion to a position covered by §§ 33.020 through 33.082 of this chapter, the first six months of service in the position to which appointed or promoted shall be considered the period of probation, except uniformed Fire Department personnel and entrance level police personnel whose probation periods shall be for 12 months; provided however, that such fire and police personnel shall be eligible for pay advancement after six months employment, upon the recommendation of the department head. In the event an employee is not meeting the work standard, the probationary period may be extended up to an additional six months not to exceed a total of twelve months probation. During the period of extended probation, the employee shall not be eligible for a step increase until such time as the employee has satisfactorily completed the extended probationary period. At the completion of the probationary period, the employee shall be eligible for a one step increase. In the event the employee does not meet the work standard at the conclusion of the first six months or at the conclusion of the extended probationary period, he shall be

separated from the service, except that, in the case of promotion from a lower position, he shall revert to such lower position with the rate of pay to which he would have been entitled had he continued to serve in such lower position without promotion.

('71 Code, § 18-37) (Ord. passed 7-1-75; Am. Ord. passed 2-19-02)

§ 33.048 ADVANCEMENTS WITHIN PAY RANGE.

(A) *Initial hire.* An employee whose entrance is at a rate of pay below the maximum of the base range may be advanced one step in the appropriate range effective the date of the successful completion of the initial probationary period. Such advancement may be recommended by the department head and approved by the Human Resources Director or Human Resources and Insurance Committee.

(B) *Promotion.* Employees may be advanced to the higher rates within the range as recommended by the department head and approved by the Human Resources Director or Human Resources and Insurance Committee, based upon their manner of job performance and length of service, except as otherwise provided for in collective bargaining agreements. Such advancement may be made yearly until the employee has reached the maximum base rate of the class grade for the position. The Human Resources Director shall develop standardized forms and processes for use by department heads in assessing and rating employee job performance on an objective and equitable basis. Eligibility dates for such advancements shall be the anniversary date of the employee's date of hire in the assigned class.

('71 Code, § 18-38) (Ord. passed 6-14-67; Am. Ord. passed 4-19-88; Am. Ord. passed 11-4-98; Am. Ord. passed 9-5-00)

§ 33.049 [RESERVED].

(Previous section repealed on 6-4-02)

§ 33.050 LONGEVITY RATES POSITIONS.

(A) *Nonaffiliated employees.* In addition to base pay, the city will provide longevity pay to its non-affiliated employees in accordance with the following schedule:

(1) After 5 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(2) After 10 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(3) After 15 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

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(4) After 20 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(5) After 25 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(6) After 30 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(7) After 35 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(8) After 40 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

(9) After 45 years of continuous city employment, an additional 3% shall be added to the employee's base pay.

When an employee has reached the years of service milestone in the above schedule, such employee shall be granted an additional pay step within the pay grade to which the employee's class has been assigned. The years of service milestone is the anniversary date of the employee's date of hire with the city. An employee who has reached the maximum step in the pay grade to which the employee's class has been assigned shall still be entitled to the above longevity adjustments in base pay.

(B) *Bargaining units.* Employees in the various bargaining units, shall receive longevity on the same basis as non-affiliated employees unless otherwise provided in a collective bargaining agreement. Nothing herein shall be deemed to modify any existing agreement relating to longevity pay that the city has with any employee bargaining unit unless and until such agreement with a bargaining unit has been modified in writing to include the above longevity schedule for non-affiliated employees by mutual agreement between the city and the bargaining unit.

('71 Code, § 18-40) (Ord. passed 4-19-88; Am. Ord. passed 11-4-98; Am. Ord. passed 9-5-00)

§ 33.051 SUPERVISORS.

All supervisors shall be paid at a higher basic rate, not including overtime or longevity, than their direct subordinates. Subordinates are defined as individuals who receive daily or weekly assignments, vacation, or absence approval, and are subject to disciplinary action by a supervisor. In the event that, because of differences in length of service a supervisor, as defined above, is paid at a lower or equal base rate than one or more of his duly assigned subordinates, excluding overtime or longevity, the supervisor shall be advanced to a step in his salary range which will provide him with a rate of pay one increment higher than the highest base rate than any subordinate, regardless of the supervisor's length of service.

('71 Code, § 18-57) (Ord. passed 6-14-67; Am. Ord. passed 12-4-73)

§ 33.052 CONTINUITY OF SERVICE.

(A) Service requirements for advancement within pay ranges and for other purposes as specified in §§ 33.020 through 33.082 of this chapter, shall have the implication of continuous service, which means employment in the city service without break or interruption.

(B) All leaves of absence with pay and leaves without pay of ten or less days shall not interrupt continuous service nor be deducted therefrom.

(C) Absences on leave without pay in excess of ten days, except for the extended service with the Armed Forces of the United States, as defined in § 33.046(C) of this subchapter, shall be deducted in computing total service but shall not serve to interrupt continuous service.

(D) All absences without leave in excess of three consecutive work days shall be deducted from and shall interrupt continuity of service.

('71 Code, § 18-42) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67)

§ 33.053 INITIAL ADJUSTMENTS TO PAY.

In order to bring all pay rates into conformity with the pay prescribed in the schedules of the compensation plan, as far as possible without causing any hardship to present employees, the following rules for application and adjustment shall be effective in fixing the rates of pay of incumbents of positions.

(A) Any employee whose rate of pay is at or above the top of the range for his class grade shall continue to receive his present rate of pay, but shall not receive any increase unless or until the class grade of his position or pay range is so changed as to provide a higher rate in the schedule for which he may qualify.

(B) Any employee whose current rate of pay is below the minimum or entrance rate for his position shall have his rate advanced to the appropriate minimum rate.

(C) Any employee whose current rate of pay is at or between rates of the range shall be advanced to the rate which is immediately above his current rate.

('71 Code, § 18-43) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 11-4-98)

§ 33.054 OVERTIME COMPENSATION FOR FLSA NON-EXEMPT SALARIED EMPLOYEES.

(A) *Administration.* In emergencies, a department head may prescribe reasonable periods of overtime work to meet operational needs. Such overtime shall be reported and justified as required by the Mayor. Complete records of overtime of employees shall be maintained by each department or office head.

(B) *Overtime compensation for non-exempt salaried employees.*

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(1) (a) When a non-exempt salaried employee is required to work more than 40 hours in a week, he/she shall be compensated at one and one-half times his/her regular hourly rate for each hour or fraction of an hour of 30 minutes duration worked. There shall be no accrual of overtime worked beyond 40 hours per week and overtime shall not be pyramided, compounded, added together, or paid twice for the time worked.

(b) Employees who are assigned to a standard work week of less than 40 hours shall be compensated for hours worked beyond their standard hours per week at the overtime rate of straight time until they reach 40 hours and then their overtime rate shall be time and one-half their hourly rate, provided:

1. Such overtime work is authorized in advance, in writing, by the department head or designated authority.

2. A request for approval for payment of overtime is submitted through the established administrative procedure.

(2) Compensatory time off in lieu of overtime payment shall be at the time and one-half rate. Such compensatory time earned must be taken within one pay period following the dates earned or request for payment for overtime must be submitted for the employee by the department. Compensatory time shall not be accrued beyond the pay period following the overtime actually worked. Such compensatory time shall be used only to compensate employees who are on a 35-hour standard work week and work more than seven hours per day or more than 35 hours, but not over 40 hours, in one week. All overtime worked beyond 40 hours in one week must be paid at the time and one-half rate, except for executive, administrative, and professional employees in exempt positions as defined in the administrative regulations.

(3) Police personnel, except executives, administrative, and professional positions as defined in the administrative regulations shall be compensated for authorized overtime by payment of such overtime and one and one-half times their normal rate of pay. Overtime qualifying for compensation at time and one-half shall be work performed in excess of the normal eight hour relief or in excess of the regular 40-hour work week, but overtime shall not be pyramided, compounded, added together, or paid twice for the same time worked. Court appearances, election details, and roll call time shall be excluded from the above provisions for overtime payment.

(4) Fire Department classes assigned to the Class Code 9000 series of the occupational list of class titles are not included in the overtime provisions of this section.

(C) *Hourly employees.* Employees in the labor and trades group paid on an hourly basis shall be paid at one and one-half times their regular rate for any hours worked beyond 40 per week or eight per day when authorized in accordance with division (A) of this section.

(D) *Effect of holidays on work week.* When a holiday is observed during any employee's work week, such holiday will have the effect of reducing the work week by seven or eight hours for each holiday observed for the purpose of complying with the overtime provisions for payment at the overtime rate for work performed beyond the normal work week.

(E) *Work performed on Sundays.* Any employee in the labor and trades group whose position is designated as non-exempt under FLSA provisions and who is required to perform work on a Sunday shall be compensated at a rate of time and one-half their regular rate of pay for each hour worked, provided that such

Sunday work is not part of their regular work schedule.

(F) *Witness duty fees.* The city shall supplement witness fees paid by the judiciary to city employees who are required by their employment to testify in cases before the courts and who are required to appear as a witness during their off-duty hours. Such witness duty supplemental fees shall be established by the Board of Mayor and Aldermen. The witness duty supplemental fee is hereby established at \$10 per day effective January 1, 1973.

('71 Code, § 18-44) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 8-7-73; Am. Ord. passed 12-17-74; Am. Ord. passed 11-4-98)

§ 33.055 EXTENDED WORKWEEK.

Any employee in a class shown on the occupational list with a standard 35-hour workweek who is regularly and continuously scheduled to work longer hours, as recommended by the department head and as approved by the Human Resources Director and the Human Resources Insurance Committee, shall be compensated as follows:

(A) 37½ hours per week - The hourly rate of pay for the standard 35-hour week times 37½ hours.

(B) 40 hours per week - The hourly rate of pay for the standard 35-hour week times 40 hours.

(C) The hourly rate of pay for the standard 35-hour workweek shall be computed by dividing the weekly salary by 35.

('71 Code, § 18-62) (Ord. passed 6-14-67; Am. Ord. passed 8-5-86; Am. Ord. passed 11-4-98)

§ 33.056 NIGHT SHIFT PREMIUM.

Any employee, except uniformed police and fire personnel, and part-time employees, who is assigned to permanent night shifts or to night shifts on a periodic rotating basis shall be paid at a rate one increment higher than his normal rate. Such premium shall apply when half or more of the shift is scheduled after 6:00 p.m. or before 8:00 a.m. and shall be paid only while the employee is actually working on such shift or is on authorized vacation or sick leave with pay, provided that he is so assigned both immediately before and after such leave.

('71 Code, § 18-63) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67)

§ 33.057 MAINTENANCE DEDUCTIONS.

Any personnel of the city who are provided with personal maintenance (including lodging and/or meals) shall have the cash value of such maintenance deducted from their individual rate in the grade for the class under salary schedule I(D) until they reach the maximum step. Such annual advancement within a pay range may continue until the maximum step is reached unless interrupted by a period of absence from work for a

period of 12 months or longer. In such event, the employee shall be reemployed at the initial pay step for the class to which he/she is assigned.

('71 Code, § 18-60) (Ord. passed 6-14-67; Am. Ord. passed 5-1-84)

§ 33.058 OUTSIDE INCOME DEDUCTIONS.

In any case in which part of the compensation for services of any employee, exclusive of pay for overtime service, is paid by any outside agency or from private sources for work performed during normal duty hours, any such payments shall be deducted from the compensation prescribed for the position in §§ 33.020 through 33.082 of this chapter to the end that the total cash compensation paid to any employee for regular full-time services from all sources combined for any period shall equal the amount prescribed in §§ 33.020 through 33.082 of this chapter.

('71 Code, § 18-61) (Ord. passed 6-14-67)

§ 33.059 CALL-BACK PAY.

(A) Any non-exempt employee who has left his normal place of work for his residence and is called back for emergency or overtime work, shall be paid for such overtime work in accordance with § 33.054 of this subchapter; provided that he shall receive a minimum guaranteed payment equivalent to three hours of pay at the overtime rate of time and one-half; provided further, that an employee who is called back for overtime or emergency work and who completes the required task and returns to his residence within the three-hour minimum guarantee may be called back for additional emergency or overtime work without an additional three hours minimum work guarantee.

(B) It is the purpose and intent of this section to assure an employee of at least three hours of pay at overtime rates for the inconvenience of being called back to work between the normal shifts, but not to be separately paid for several call-backs within the three-hour minimum guarantee period.

(C) Any employee who is called in one hour or less prior to the start of his normal shift shall receive such time at the overtime rate, but is excluded from the three-hour minimum guarantee outlined in division (B) of this section.

(D) Departments may schedule employees to start their next day's shift at a time earlier than the regular time without extra compensation under the call-back provisions of this section, provided such change in schedule is made prior to the completion of the shift the preceding day.

(E) Exempt employees shall not be entitled to call-back pay unless such call-back pay is part of a collective bargaining agreement.

('71 Code, § 18-45) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 5-6-69; Am. Ord. passed 8-7-73; Am. Ord. passed 11-4-98)

§ 33.060 STANDBY DUTY.

(A) *Standby duty in general.* Any employees who are assigned during their normal off-duty hours by their departments to standby duty, in immediate communication with the department during the standby period, and available at a minimum notice for emergency call-back duty shall be compensated for the inconvenience resulting thereby as follows.

(B) *Standby pay.* Except as otherwise provided in a collective bargaining agreement, all standby pay for non-exempt employees shall be compensated at the following rates:

(1) Monday through Friday (from the end of a normal work shift to the beginning of the next normal work shift) at the rate of \$10.00 per day.

(2) Saturday, Sunday and Holiday (from the end of a normal work shift on Friday to the beginning of the next normal work shift the following Monday or the 24 hour period of a holiday) at the rate of \$20.00 per day.

(3) Should any collective bargaining agreement provide a higher standby pay than indicated above, then employees who are not members of that bargaining agreement shall receive no less standby pay.

(C) *Standby pay for exempt employees.* Exempt employees shall not be entitled to standby duty pay unless such standby duty pay is part of a collective bargaining agreement or is approved by the Board of Mayor and Aldermen.

('71 Code, § 18-46) (Ord. passed 5-6-69; Am. Ord. passed 5-15-73; Am. Ord. passed 11-4-98; Am. Ord. passed 12-7-99)

§ 33.061 TEMPORARY ASSIGNMENTS.

(A) In any case when an employee is qualified for and is temporarily required to serve regularly in and accept the responsibility for work in a higher class of position, such employee shall receive the entrance rate of that class or one rate step above his present rate, whichever is higher, while so assigned, subject to the approval of the Human Resources Director or Human Resources and Insurance Committee. Such temporary assignment to a higher class of positions, to qualify for the higher rate of pay, shall be regular and continuous in character for at least one work day for FLSA non-exempt employees and one work week for FLSA exempt employees. An employee may be temporarily assigned to the work of any position of the same or lower class grade without change in pay. In those cases when an FLSA non-exempt employee is assigned to temporarily serve in a higher level FLSA exempt position, such as a superintendent's position in the Highway Department, then such FLSA non-exempt employees shall be granted the higher rate of pay in accordance with this section if the assignment is for one full work day or longer.

(B) When a department head position is vacant, the Mayor, or Board as appropriate, may appoint an individual as the acting department head. Such employee shall be compensated at the entrance rate of the salary grade for the vacant department head position or one rate step above his/her present rate, whichever is higher

while so assigned.

('71 Code, § 18-56) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 5-20-75; Am. Ord. passed 11-4-98; Am. Ord. passed 8-5-03)

§ 33.062 PART-TIME EMPLOYEES.

(A) Any employee occupying a position designated as FLSA exempt who is regularly employed on a continuing work schedule of less than 40 hours per week shall be compensated by multiplying the base pay rate by the number of regular hours worked per week.

(B) An employee occupying a position designated as FLSA non-exempt and who is employed on a part-time basis shall be paid on an hourly basis according to the provisions of § 33.063 of this subchapter.

('71 Code, § 18-58) (Ord. passed 6-14-67; Am. Ord. passed 8-20-68; Am. Ord. passed 11-4-98)

§ 33.063 TEMPORARY AND SEASONAL EMPLOYEES.

Any temporary or seasonal employees occupying classified positions shall be employed initially at the salary grade for his/her classification. Upon recommendation of a department head, a temporary or seasonal employee may advance one step in his/her salary grade upon satisfactory completion of 2080 hours of work. Such advancement within a pay grade may continue until the maximum step is reached unless interrupted by a period of absence from work for a period of 12 months or longer. In such event, the employee shall be reemployed at the minimum initial pay step for the class to which he/she is assigned.

('71 Code, § 18-59) (Ord. passed 6-14-67; Am. Ord. passed 5-1-84; Am. Ord. passed 8-6-02)

§ 33.064 EMPLOYEES INJURED IN THE LINE OF DUTY.

(A) Employees, other than employees of the Police Department and employees of the Fire Department, injured in the line of duty shall be entitled to compensation as provided under the Worker's Compensation Law.

(B) For employees of the Police Department and employees of the Fire Department the following shall apply:

(1) Any employee of the city who sustains an injury which is compensable under the Workers Compensation Law and who is entitled to receive compensation benefits either by agreement of award shall, in addition to workers compensation benefits, receive supplemental pay benefits from the city so that combined worker compensation and supplemental pay benefits shall equal 80% of regular gross salary if the employee is covered under Social Security, and 87% if the employee is not covered under Social Security. Regular gross salary means gross wages as shown in the salary and wage schedules in the city and the school department compensation plans. The Finance Department shall make such adjustments as are necessary to

ensure that employees will actually receive the supplemental pay benefit provided above.

(2) Pending determination of compensation eligibility, the employee may receive sick leave benefits. On a determination of eligibility for compensation benefits, sick leave credit shall be restored.

(3) To the extent authorized by law, the city, during the period the employee is receiving supplemental pay benefits, shall continue to contribute to the employee's retirement system on the employees' regular gross salary provided the employee maintains his contributions to the system.

(4) Disabled employees may authorize deductions first from this supplemental portion of his pay and then from his workers compensation disability payments for medical insurance, credit union payments, bonds or savings plans, retirement, and United Fund contributions, or other authorized deductions, upon forms approved by the Risk Manager.

(5) In cases of third party liability the city shall be entitled to the same lien and rights with respect to supplemental pay as are afforded employers under the Workers Compensation Law. As a condition to receiving supplemental pay benefits, the employee shall execute a written assignment of such lien and rights to the city in such form as is required by the Risk Manager. The Risk Manager is authorized to make third party lien settlements on behalf of the city and the employee with respect to supplemental pay benefits, provided however, that a full report shall be made to the Aldermanic Insurance Committee.

(6) It shall be the duty of each department head to monitor the payment of supplemental pay benefits to employees within his department. On recommendation of the department head, the Risk Manager may require employees receiving supplemental pay benefits to be examined by a physician or physician chosen by the city at the city's expense at intervals not more frequent than the requirements set forth in R.S.A. 281-A:38.

(7) In no event shall this section provide more than 52 weeks of supplemental pay benefits for the injury or any recurrence thereof. Employees unable to resume normal work duties after one year shall be examined by a physician or physicians chosen by the city at the city's expense. If on such examination the employee is found to be unable to fulfill the requirements of his/her normal work duties, such employee shall be terminated.

(8) Any employee so terminated shall be entitled to a hearing before the Aldermanic Insurance Committee. Requests by employees for a hearing must be submitted to the Committee no later than 15 calendar days after the receipt of notification of termination. The Aldermanic Insurance Committee shall hold a hearing within 30 calendar days of the receipt of the request.

(9) If the employee prevails in the hearing before the Aldermanic Insurance Committee, employment will not be terminated but in no event shall the supplemental pay benefits exceed the maximum of 52 weeks of cumulative benefits. The determination of the Aldermanic Insurance Committee is subject to review by that Committee each 30 calendar days. The decision of the Aldermanic Insurance Committee shall be final.

(10) Effective date and retroactivity. This section shall take effect on its passage. Employees who sustained compensable injuries from May 12, 1982, to the effective date of this section shall be entitled to supplemental pay benefits subject to all of the terms and conditions of this section retroactive to the date of the injury, except the formula for calculating the amount of the supplemental pay benefit shall be in accordance with the previous provisions of this section, having an effective date of July 6, 1982, provided that the total

amount of the supplement paid shall not exceed 52 weeks of cumulative benefits. Sick leave payments taken in lieu of supplemental pay benefits, shall be restored. Employees who believe their previous Workers' Compensation claims are affected by this change to a total cumulative benefit of 52 weeks must file a claim with the Risk Manager no later than 12 months from the date of passage of this section.

('71 Code, § 18-47) (Ord. passed 7-6-82; Am. Ord. passed 11-7-90; Am. Ord. passed 6-28-94; Am. Ord. passed 7-5-94)

LEAVES OF ABSENCE

§ 33.075 HOLIDAYS.

(A) *Compensation for absence on holidays.* Any employees of the city, except temporary employees and part-time employees who work less than half the regular work schedule for their assigned classes, shall receive their regular compensation for the following legal holidays or parts thereof or any other day proclaimed as a holiday by the Board of Mayor and Aldermen, during which the public offices of the city are closed:

- (1) New Year's Day;
- (2) Washington's Birthday;
- (3) Civil Rights Day;
- (4) Memorial Day;
- (5) Fourth of July;
- (6) Labor Day;
- (7) Columbus Day;
- (8) Biennial Election Day;
- (9) Veteran's Day;
- (10) Thanksgiving Day;
- (11) Christmas Day.

It is not the intention of the Board of Mayor and Aldermen to create an additional paid holiday for city employees. Rather, the intention is to substitute Civil Rights Day for Fast Day, effective upon passage for non-affiliated employees and effective for affiliated employees upon agreement by their exclusive bargaining representatives.

(B) *Compensation for a holiday falling on a regularly scheduled day off.* Except for employees regularly scheduled to work on a shift basis, when a holiday listed in subsection (A) of this section falls on Saturday, the preceding Friday shall be observed as the legal holiday, and when the legal holiday falls on

Sunday, the following Monday shall be observed as the legal holiday.

(C) *Compensation for work performed on holidays.* Any permanent full-time employee, or permanent part-time employee who regularly works one-half or more of the regular schedule for his assigned class, who is required to perform work or to render services on one of the holidays listed in subsection (A) of this section shall be compensated therefor as follows:

(1) Any employee in any class of positions, except those in the labor and trades group, shall receive their regular pay for the holiday payment at straight time for all hours worked on a holiday.

(2) Any employee in any class of positions in the labor and trades group only shall receive their regular pay for the holiday plus payment at time and one-half their regular rate of pay for all hours worked on a holiday.

(D) *Forfeiture of holiday pay.* Any employee shall forfeit his right to payment for any holiday if he has an unexcused absence on the last regular work day preceding such holiday or on the next regular work day following such holiday.

(E) *Reserve Officers.* Individuals who are hired to work as Reserve Officers (compensated as Patrolmen) shall not be entitled to holiday pay.

('71 Code, § 18-48) (Ord. passed 6-14-67; Am. Ord. passed 12-27-67; Am. Ord. passed 1-7-92; Am. Ord. passed 8-6-02)

§ 33.076 SPECIAL LEAVE.

(A) In addition to other leaves authorized by this subchapter, a department head with the approval of the Mayor, may authorize an employee to be absent without pay for personal reasons for a period or periods not to exceed ten work days in any calendar year.

(B) The Board of Mayor and Aldermen may authorize special leaves of absence with or without pay for any period or periods not to exceed one calendar year for the following purposes: Attendance at college, university or business school for the purpose of training in subjects relating to the work of the employee and which will benefit the employee and the city service; urgent personal business requiring the employee's attention for an extended period, such as settling estates, liquidating a business, serving on a jury and attending court as a witness; and for purposes other than the above that are deemed beneficial to the city service.

(C) The city shall pay an employee absent for jury service the difference between his regular city pay and the payment he receives for jury service.

('71 Code, § 18-49) (Ord. passed 6-14-67)

§ 33.077 BEREAVEMENT LEAVE.

(A) Any permanent full-time or permanent part-time employee who works half or more of the

regular work schedule for the assigned class shall be excused from work for not more than five work days with pay between the date of death and the date of the funeral, inclusive, in the event of the death of his/her spouse, father, mother, sister, brother, child, father-in-law, mother-in-law, son-in-law, daughter-in-law, or a blood relative or ward residing in the same household.

(B) Special leave of one working day with pay, for the purpose of attending the funeral, shall be granted any permanent employee, as defined in division (A) above, in the event of the death of his/her grandmother, grandfather, grandchild, aunt, uncle, brother-in-law, or sister-in-law.

(C) Under extenuating circumstances, two additional days with pay may be granted under division (A) above, with written approval of the department head; provided, however, such days are to be charged to the employee's accrued sick leave.

(D) Not more than eight hours per day shall be paid for bereavement leave and under no circumstances shall bereavement leave be paid on an overtime basis.

('71 Code, § 18-50) (Ord. passed 12-27-67; Am. Ord. passed 9-1-81; Am. Ord. passed 11-4-98)

§ 33.078 ABSENCE WITHOUT LEAVE.

Any employee who is absent from duty shall report the reason therefor to his supervisor prior to the date of absence when possible and in no case later than the second day of absence. All unauthorized and unreported absences shall be considered absence without leave and deduction of pay shall be made for the period of absence. Such absence may be the grounds for disciplinary action.

('71 Code, § 18-51) (Ord. passed 6-14-67)

§ 33.079 VACATIONS.

(A) *Vacation eligibility.*

(1) All employees in the city service, except part-time employees who work less than one-half the regular work week, temporary, seasonal, and school term employees, shall be eligible for vacation leave with pay after the completion of six months of continuous service.

(2) Vacation credits shall accrue during the first six months of employment, but an employee shall not be eligible to use such vacation credits until the completion of six months of continuous service. If an employee is terminated for any cause during the first six months of employment he shall not have earned any vacation credits and shall not be eligible for payment for any vacation credits.

(B) *Credit for temporary employment.* Employees who are initially employed in a full-time temporal status and who are subsequently appointed to a permanent status, without a break in service, shall be allowed credit for the time served in the temporary status towards accrual of vacation leave benefits.

(C) Vacation leave credit shall accrue for eligible employees on a weekly basis, as follows:

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- (1) *First five years.* 1.54 hours per week for each completed week of service until the completion of five years of continuous employment.
- (2) *Six to fourteen years.* 2.31 hours per week for each completed week of service after the completion of five years of continuous employment and continuing at such rate until the completion of 14 years of continuous service.
- (3) *Fifteen through nineteen years.* 3.08 hours per week for each completed week of service after the completion of fourteen years of continuous service and thereafter continuing at such rate until the completion of 19 years of continuous service.
- (4) *Twenty or more years.* 3.85 hours per week for each completed week of service after the completion of nineteen years of continuous service and thereafter.
- (5) Vacation for part-time employees shall be pro-rated and accrue on a basis of the portion of 40 hours worked per week. Maximum accrual will be on 40 hours per week.
- (6) The practice of crediting the employee with 40 hours of vacation upon change of accrual rate is no longer authorized.
- (7) No vacation shall accrue on hours in excess of 40 hours per week.
- (D) *Use of vacation for other purposes.* Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purpose may, at the request of the employee and within the discretion of the department head, be charged against earned vacation leave allowance.
- (E) *Scheduling of vacations.* Each department or office head shall keep records of vacation leave allowances and shall schedule vacation leaves with particular regard to the seniority of employees, to accord with operating requirements and, insofar as possible, with the request of the employee. Vacations shall be scheduled at the discretion of the department heads to provide the least disruption of departmental operations.
- (F) *Vacation pay.* Vacation pay shall be based upon the regular daily rate of pay for salaried employees. Fire Department employees' daily rate shall be computed at one-fifth of a regular week's pay. Hourly rated employees shall be paid at their regular straight time basis, not to exceed eight hours of pay for a vacation day. No vacation benefits shall be paid at time and one-half.
- (G) *Legal holidays.* In the event a paid legal holiday as prescribed in this section falls during the week an employee is on vacation such holiday shall not be charged against the vacation time, except for police and fire personnel who are granted extra pay in lieu of taking holidays.
- (H) *Maximum vacation accrual.* No employee shall be permitted to accrue in excess of one and one-half times his annual earned vacation; for example, an employee who earns ten days of vacation per year shall have no more than 15 days earned vacation to his credit at any one time; an employee who earns 15 days of vacation per year shall have no more than 22½ days earned vacation to his credit at any time; and an employee who earn 20 days of vacation per year shall have no more than 30 days earned vacation to his credit at any one time.
- (I) *Reserve Officers.* Individuals who are hired to work as Reserve Officers (compensated as Patrolmen) shall not be entitled to accrue any vacation time whatsoever.

('71 Code, § 18-52) (Ord. passed 9-2-58; Am. Ord. passed 6-14-67; Am. Ord. passed 7-3-73; Am. Ord. passed 11-4-98; Am. Ord. passed 6-17-99; Am. Ord. passed 12-7-99; Am. Ord. passed 8-6-02)

§ 33.080 MILITARY SERVICE.

(A) Any employee who holds a position that is expected to continue indefinitely or for a significant period of time or official of the city who is a member of the National Guard or of a reserve component of the armed forces of the United States shall be entitled to military leave when such duty is in conflict with the employee's or official's regular work schedule. Employees and officials who are eligible for paid time off shall be entitled to ten days of paid military leave per training year (October 1 to September 30) to engage in temporary active duty when such duty is in conflict with the employee's or official's work schedule.

(B) Under the Federal Uniform Services Employment and Reemployment Rights Act of 1994, any reservist or member of the National Guard who is returning from active duty whose cumulative absences for military service do not exceed five years or less, and possesses an honorary or general discharge, shall be guaranteed a position equivalent to the position that the employee vacated to perform the active duty unless the re-employment causes undue hardship to the city pursuant to U.S.C. 4321(d). To be eligible for re-employment, the reservist or member of the National Guard shall have:

(1) Been employed with the city in a position for which there was no reasonable expectation of an end date or the position was expected to continue for a significant period of time;

(2) Satisfactorily completed the period of active duty and possess a certificate to that effect;

(3) Met the qualifications to perform the duties of the position or, if unable to qualify, met the qualifications to perform the duties of a comparable position; and

(4) Returned to work within one of the following time parameters:

(a) For military service of less than 31 days, the employee shall return at the next regularly scheduled work day on the first full day after release from duty taking into account safe travel time plus an eight hour rest period.

(b) For military service of more than 30 days but less than 180 days, the employee shall return to work within 14 days of release from active duty.

(c) For military service of more than 180 days, the employee shall report to work within 90 days of release from military duty.

('71 Code, § 18-53) (Ord. passed 11-7-01)

§ 33.081 SICK LEAVE.

(A) All permanent employees in the city service, except temporary, seasonal, and part-time employees who work less than one-half of the regular work week, shall be entitled to sick leave with pay after satisfactory completion of the probationary period following initial employment. Sick leave credit shall accrue

at the rate of one and one-quarter work days with pay for each completed month of service.

(B) Any unused sick leave credit may be accumulated up to a maximum of 120 work days.

(C) Any employee absent from work on legal holidays, during sick leave, vacation, for disability arising from injuries sustained in the course of his employment, for all authorized leaves of absence with pay and for authorized leaves without pay for not over ten days in any one calendar year shall continue to accumulate sick leave at the regularly prescribed rate during such absence as though they were on duty, subject to the maximum limitation herein provided.

(D) Any employee eligible for sick leave with pay may use such sick leave, upon approval of his/her department or office head, for absence due to his or her illness, injury, the illness or injury of a spouse, child or other blood relative or ward residing in the same household when FMLA leave is approved, or for the exposure to contagious disease. An employee on sick leave shall inform his immediate supervisor of the fact and the reason therefor as soon as possible and failure to do so within a reasonable time may be cause for denial of pay for the period of absence. The department head shall require a doctor's certificate before approving sick leave with pay for a period or periods of more than three work days.

(E) Absences for a fraction or part of a day that are chargeable to sick leave in accordance with these provisions shall be charged proportionally in an amount not smaller than one hour.

(F) Any Fire Department personnel on the platoon system schedule shall accumulate sick leave on the basis of one and one-quarter days for each month of service, provided that sick leave shall be charged at the rate of one day for each shift missed. If only part of a shift is missed, the employee shall be charged in proportion to the time missed in amounts not smaller than one-half day of sick leave.

(G) During periods of absence for approved paid sick leave the employee shall be entitled to full pay for such period at the regular rate of compensation, provided, however, that hourly employees shall be compensated on the basis of straight time pay not to exceed eight hours per day and not to exceed 40 hours per week. No sick leave benefits shall be paid on the basis of time and one-half.

(H) (1) On separation from city service, all sick leave credits shall be cancelled, except in case of retirement, duty disability retirement or death while in active service. All accrued sick leave shall be paid to the employee or his beneficiary under such conditions of separation from service as prescribed by the Board of Mayor and Aldermen.

(2) Any employee who becomes a member of the contributory retirement system pursuant to Laws 1973, 218:3 II shall, on separation from service, be entitled to be paid the same accrued sick leave credits to which he would have been entitled had he remained under the prior pension plan.

(3) On separation from service other than by retirement, duty disability retirement, death, or circumstances provided above, any employee with 15 consecutive years of city service, provided separation is other than by discharge or resignation in lieu of discharge, shall be paid all accrued sick leave credits.

(4) Payment for accrued sick leave credits shall be paid as follows:

(a) Upon death (while employed by the city) or paid retirement, employees may be paid up to 80 days of accrued sick leave.

(b) On separation from service under satisfactory conditions and 15 years of

continuous service, employees may be paid up to 60 days of accrued sick leave.

(I) Individuals who are hired to work as Reserve Officers (compensated as Patrolmen) shall not be entitled to accrue any sick time whatsoever.

('71 Code, § 18-54) (Ord. passed 6-14-67; Am. Ord. passed 12-21-71; Am. Ord. passed 4-15-80; Am. Ord. passed 4-7-87; Am. Ord. passed 11-4-98; Am. Ord. passed 9-5-00; Am. Ord. passed 8-6-02; Am. Ord. passed 8-6-02)

§ 33.082 VACATION AND SICK LEAVE CREDITS.

(A) Any permanent employee of the city who has completed 20 years of service and who becomes eligible for retirement and who does retire from active service or who is forced to retire due to disability received from injuries in the actual performance of his duties and has gained his annual vacation leave as defined by this subchapter and/or who has an accumulation of sick leave credits as defined by statute shall be allowed leave with full pay equal to the number of vacation and/or sick leave days to his credit previous to the time of retirement. The period of payment shall be based on the number of calendar work weeks in which the number of vacation and/or sick leave days to his credit terminate as computed and established in each respective department.

(B) Where an employee of the city who in any year has gained his annual vacation leave as defined by this subchapter and/or who has an accumulation of sick leave credits as defined by statute dies while in active service from any cause, a sum equal to the number of annual vacation and/or sick leave days to his credit remaining as computed and established in each respective department shall be paid to his estate. ('71 Code, § 18-55) (Ord. passed 4-15-69)

WORKER'S COMPENSATION AND INSURANCE

§ 33.090 ALDERMANIC HUMAN RESOURCES AND INSURANCE COMMITTEE.

The Aldermanic Human Resources and Insurance Committee shall conduct a continuing study of the city's worker's compensation and insurance needs. The Committee shall from time to time recommend changes in the city's worker's compensation and insurance programs to the Board of Mayor and Aldermen. The Committee shall, to the extent necessary, confer with the city's insurance consultant for guidance in the formulation of appropriate worker's compensation and insurance programs.

('71 Code, § 2-150) (Ord. passed 2-7-78; Am. Ord. passed 11-4-98)

§ 33.091 RISK MANAGEMENT PROGRAM.

(A) A risk management program for the city is hereby adopted for the protection of persons and

property from accidental injury or damages through the avoidance or reduction of risks over which the city has control, for the protection of the city and its public officials against catastrophic financial consequences of accidental losses which do occur, and for the containment of employee health and life benefit costs.

(B) The program shall address and administer the following specific objectives:

(1) *Risk identification and evaluation.* Identifying and measuring all risks of accidental loss and evaluating the alternate methods of treating such risks, including elimination, reduction, self-assumption, contractual transfer and insurance.

(2) *Safety and loss prevention.* Maintenance of overall responsibility for establishing, implementing and monitoring an integrated safety and loss prevention program.

(3) *Risk management information systems.* Development and maintenance of information systems for tracking asset information and values, loss data, insurance premiums, deductible costs, uninsured losses, and all risk related costs.

(4) *Claims management.* Establishment and implementation of a loss reporting, claims processing, and follow-up system so as to ensure prompt notification of loss and insurance reimbursement where applicable.

(5) *Self-insured workers' compensation program administration.* Administration of the city's workers' compensation program in full compliance with state law and in a manner which will minimize the city's costs.

('71 Code, § 2-151) (Ord. passed 2-7-78; Am. Ord. passed 12-17-85)

§ 33.092 OFFICE OF RISK MANAGEMENT.

The Office of Risk Management under the direction of a Risk Manager is established within the office of City Solicitor.

('71 Code, § 2-152) (Ord. passed 2-7-78; Am. Ord. passed 12-17-85; Am. Ord. passed 6-27-94)

§ 33.093 DUTIES OF CITY SOLICITOR AS RISK MANAGER.

(A) The position of Risk Manager is hereby transferred to the office of the City Solicitor.

(B) The City Solicitor acting as Risk Manager shall be responsible for the risk management program and shall be head of the Office of Risk Management. The duties of the Risk Manager shall include but not be limited to the following:

(1) The Risk Manager shall be responsible for the management of such worker's compensation and insurance programs as the Board of Mayor and Aldermen has adopted.

(2) The Risk Manager shall purchase insurance for the city and its departments as directed by

the Board of Mayor and Aldermen and shall be responsible for the expenditure of all funds appropriated to the Office of Risk Management.

(3) He shall carefully examine and audit all worker's compensation claims and expenses; no payment shall be made or expense allowed until approved by the Risk Manager.

(4) The Risk Manager shall be responsible for maintaining a record of all worker's compensation and insurance claims in which the city is involved.

(5) The Risk Manager shall establish procedures for processing and handling writs, petitions, notices, and other legal documents.

(6) It shall be the Risk Manager's responsibility (after discussion with the city's insurance consultant, if necessary) to insure that all notices of claims, writs, petitions, legal notices, accident reports, and other documents are forwarded to such appropriate insurance carrier, to the Labor Commissioner, to the city's worker's compensation service company or to such other agency or individual as may be required by regulations promulgated hereunder, by law or by contract.

(7) The Risk Manager shall establish standards and procedures respecting the conduct of city employees who are involved in accidents or other occurrences which may result in liability to the city.

(8) He shall attend all meetings of the Aldermanic Human Resources and Insurance Committee and shall submit such information, statistics, or reports as the Committee may direct.

(9) The Risk Manager, on the advice of the insurance consultant or others, may recommend changes in the city's workmen's compensation and insurance programs to the Aldermanic Human Resources and Insurance Committee.

(10) The Risk Manager, on consultation where appropriate with other counsel for the city, the insurance consultant, and others, is authorized to settle claims and suits against the city in matters arising under this subchapter subject to such guidelines as may be established by the Committee on Insurance.

('71 Code, § 2-154) (Ord. passed 2-7-78; Am. Ord. passed 12-17-85; Am. Ord. passed 10-15-91; Am. Ord. passed 6-27-94; Am. Ord. passed 11-4-98)

§ 33.094 INSURING PERSONAL PROPERTY OF EMPLOYEES.

(A) The city shall not be liable for the loss of any personal property of its employees. The personal property of employees is not included under the city's insurance coverage; therefore, all employees are expected to maintain the proper insurance coverage for their personal property.

(B) *Exceptions.* Notwithstanding the above, the city recognizes that 16 employees of the Highway Department, one employee of the Fire Department, and one employee of the Airport Authority are required as a term of their employment to provide their own hand tools. In those instances, the city shall pay a yearly allowance to enable the employees to obtain insurance coverage for their hand tools. To obtain the allowance, each employee must provide his department head with a complete inventory of all his personal tools used on the job. The allowance shall be \$25 per each \$1,000 worth of tools up to a maximum allowance of \$150 per year.

('71 Code, § 2-154.1) (Ord. passed 6-19-84; Am. Ord. passed 11-4-98)

Cross-reference:

Chief Negotiator and Contract Administrator, see §§ 30.60 through 30.62

CHAPTER 34: CITY POLICIES

Section

General Provisions

- 34.01 Policies of Board of Mayor and Aldermen
- 34.02 Processing by Policy Review Committee
- 34.03 Adoption by the Board of Mayor and Aldermen
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GENERAL PROVISIONS

§ 34.01 POLICIES OF BOARD OF MAYOR AND ALDERMEN.

Proposals for the adoption of policies by the Board of Mayor and Aldermen authorized by Charter, § 8.01 may be introduced by a member at any meeting of the Board of Mayor and Aldermen. Unless otherwise ordered, such proposals shall be referred to the Policy Review Committee for processing as hereinafter provided. Except in emergency situations, policies shall become effective only after being processed through the Policy Review Committee. If the Board of Mayor and Aldermen determines an emergency exists, the policy may become effective immediately and in such case the policy in question shall be referred to the Policy Review Committee for processing and recommendation.

('71 Code, § 2-190) (Ord. passed 4-20-93)

§ 34.02 PROCESSING BY POLICY REVIEW COMMITTEE.

In processing proposals referred by the Board of Mayor and Aldermen, the Policy Review Committee shall:

- (A) Consider the fiscal impact of the proposed policy;
- (B) Identify the legal basis for adoption of the proposal;
- (C) Solicit comments on the proposal from the public, city officials, or others as deemed appropriate or as ordered by the Board of Mayor and Aldermen;
- (D) Develop the proposal in language and format appropriate for inclusion in the manual;
- (E) Address other pertinent considerations; and
- (F) Prepare a report of its findings and recommendations for the Board of Mayor and Aldermen.

('71 Code, § 2-191) (Ord. passed 4-20-93)

§ 34.03 ADOPTION BY THE BOARD OF MAYOR AND ALDERMEN.

Reports of the Policy Review Committee on referred proposals shall be expeditiously submitted to the Board of Mayor and Aldermen and processed in the same manner as the reports of standing committees. If adopted, such proposal shall be enrolled in the manual by the City Clerk. Unless otherwise ordered, such policies shall take effect on the first day of the month following adoption. The City Clerk shall forward a copy of all adopted policies to all city departments and officers.

('71 Code, § 2-192) (Ord. passed 4-20-93)

§ 34.04 MAINTENANCE OF BUILDINGS AND CLOCKS.

(A) The Committee on Lands and Buildings shall have the care of all buildings belonging to the city except the police station, fire stations and schoolhouses. The Committee shall also take charge and care of all tower clocks and other clocks of the city.

(B) The Public Works Director or his designee shall attend all meetings of the Committee on Lands and Buildings and shall make periodic reports as required by the Committee of all work in progress and on the condition of all city buildings and facilities under his charge.

('71 Code, § 2-8) (Am. Ord. passed 10-11-77; Am. Ord. passed 12-7-99)

Statutory reference:

Maintenance of city property, see R.S.A. 47:5

§ 34.05 RETURNED CHECKS.

Any person who issues an uncollectible check to the city shall be charged the maximum fee allowed by law plus all protest, bank, and legal fees in addition to the amount of the check.

(Ord. passed 6-21-94)

SURPLUS CITY PROPERTY

§ 34.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPRAISAL. A written opinion of market value.

PUBLIC SALE. Disposal by public auction, advertised sealed bids, or some other open market procedure which provides the public an opportunity to participate.

SURPLUS CITY PROPERTY. Real estate owned by the city which is not required for municipal purposes either presently or in the foreseeable future.

('71 Code, § 23½-1) (Ord. passed 4-4-89)

§ 34.16 POLICY STATEMENT.

It is the policy of the city to return surplus city property to the tax rolls and to obtain fair market value on the sale of all such property. This section applies to tax-deeded property to the extent consistent with state law.

('71 Code, § 23½-2) (Ord. passed 4-4-89)

§ 34.17 REQUESTS TO BE IN WRITING.

All requests relative to the purchase or sale of city real estate shall be in writing addressed to either the Board of Mayor and Aldermen or the Committee on Lands and Buildings. All such communications shall be

placed on the next aldermanic agenda for information purposes.

('71 Code, § 23½-3) (Ord. passed 4-4-89)

§ 34.18 COMMITTEE ON LANDS AND BUILDINGS.

It shall be the responsibility of the Committee on Lands and Buildings to process requests relative to the purchase or sale of city real estate in accordance with the requirements of this subchapter and to make appropriate reports and recommendations to the Board of Mayor and Aldermen.

('71 Code, § 23½-4) (Ord. passed 4-4-89)

§ 34.19 ASSESSORS.

On receipt of requests relative to purchase or sale of city real estate, the City Clerk on behalf of the Committee on Lands and Buildings shall immediately refer the same to the assessors for an appraisal. On recommendations of the assessors, the Committee may order an outside fee appraisal.

('71 Code, § 23½-5) (Ord. passed 4-4-89)

§ 34.20 PLANNING DIRECTOR AND TAX COLLECTOR.

The City Clerk shall likewise refer such requests to the Planning Director for study and recommendations to the Committee. The Planning Department shall, as appropriate, consult with other departments and city agencies. In addition requests relative to tax-deeded property shall be referred to the Tax Collector.

('71 Code, § 23½-6) (Ord. passed 4-4-89)

§ 34.21 MANNER OF SALE.

All such surplus city property shall be disposed of by public sale unless otherwise ordered by the Board of Mayor and Aldermen on recommendation of the Committee on Lands and Buildings in accordance with the provisions of § 34.22 of this subchapter. Disposition other than by public sale is authorized only where such is in the best interest of the city, is required by justice or if other good reason exists.

('71 Code, § 23½-7) (Ord. passed 4-4-89)

§ 34.22 REPORT OF COMMITTEE ON LANDS AND BUILDINGS.

(A) Upon completion of its review of requests relative to the purchase or sale of city real estate the Committee on Lands and Buildings shall report and make recommendations to the Board of Mayor and Aldermen on the following:

- (1) The market value of the property as reported by the assessors.
- (2) Whether the property is surplus to the needs of the city including the Planning Director's recommendations.
- (3) The method, terms, and conditions of the sale including a minimum bid price where appropriate.

(B) If the recommended method of disposal is other than by public sale, the Committee shall specify the reason or reasons for such recommendation. The report shall address such other considerations as the Committee deems appropriate.

('71 Code, § 23½-8) (Ord. passed 4-4-89)

§ 34.23 BOARD OF MAYOR AND ALDERMEN.

On receipt of the report of the Committee on Lands and Buildings, the Board of Mayor and Aldermen subject to the requirements of this chapter shall determine whether the property should be disposed of and the manner of sale. The Mayor shall be authorized to convey the property by deed.

('71 Code, § 23½-9) (Ord. passed 4-4-89)

§ 34.24 PROPERTY LIST.

The Planning Director shall compile and maintain a list of all property owned by the city. The list shall contain a detailed description of each parcel and, such other pertinent information as is deemed appropriate by the Director or by the Committee on Lands and Buildings. Parcels having no value may be omitted or deleted from the list with the approval of the Committee.

('71 Code, § 23½-10) (Ord. passed 4-4-89)

§ 34.25 LEASES.

This subchapter shall apply to all leases with terms of five or more years.

CHAPTER 35: FINANCES

Section

Finance Officer

- 35.015 Department established
- 35.016 Department head
- 35.017 Duties of Finance Officer
- 35.018 Audits

Treasury

- 35.020 City Treasury depository of funds
- 35.021 Deposits
- 35.022 Making payment from treasury
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- 35.024 Payment of taxes, fees, and charges by credit card

Budget Procedures

- 35.030 Committee on Finance: Appointment, composition, and duties
- 35.031 Committee on Accounts
- 35.032 Revenue stabilization reserve account
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Reporting Violations

- 35.040 Mayor to investigate and report violations

Cross-reference:

Trustees of trust funds, see §§ 32.010 - 32.014

Taxation, see Ch. 36

Statutory reference:

Financial responsibilities of cities, R.S.A. 47:6

FINANCE OFFICER

§ 35.015 DEPARTMENT ESTABLISHED.

Pursuant to Charter § 3.02 there is established a Department of Finance.

(Ord. passed 11-4-98)

§ 35.016 DEPARTMENT HEAD.

The department head shall be the Finance Officer who shall be appointed as provided by Charter § 3.07.

(Ord. passed 11-4-98)

§ 35.017 DUTIES OF FINANCE OFFICER.

In addition to the powers, duties and functions otherwise vested by law in the Finance Officer, he shall:

(A) Develop and implement, subject to approval by the Board of Mayor and Aldermen, a long-range, six-year financial plan for the city.

(B) Attend all meetings of the Board of Mayor and Aldermen, answer questions and give information relative to financial operations on the city and its departments.

(C) Furnish to any aldermanic committee such aid and information regarding the financial affairs of the city as it may request.

(D) Receive cooperation from all departments in providing information which he shall request in order to carry out his statutory functions.

(E) Direct the city's fiscal account systems, using generally accepted accounting principles and taking full advantage of all benefits of automated data processing applications, to the end that the fiscal affairs of all city departments will be adequately and uniformly serviced and that periodic financial and management reports will be available to serve the various needs of all city departments and the Board of Mayor and Aldermen in their decision-making processes and investors.

(F) Develop, administer and, as necessary, revise an integrated system of governmental cost accounting and financial reporting which accurately and systematically accounts for all revenues, receipts, resources and property of the city and each of its departments; and records information about the financial activities of the city and its city departments necessary to compare and control expenditures and commitments, within budgets and appropriations; and from which it shall be possible to obtain accurate annual and interim monthly and quarterly financial statements and other reports which present fairly and with full disclosure the financial position and results of operations of the city in conformance with generally accepted accounting principles; and which makes it possible to determine and demonstrate compliance with finance related legal and contractual provisions, including federal grants, to which the city or any of its departments are subject.

(G) Review all city contracts for budget control.

(H) Pre-audit claims to be presented for the issuance of warrants and certify to the Board of Mayor

and Aldermen that such are just and proper claims against the city and within appropriations.

(I) Prepare appropriation warrants and schedules of pre-audited manifests supporting the same, for consideration and execution by the Board of Mayor and Aldermen.

(J) Make such transfers of appropriation items within department budgets and between non-departmental and/or departmental line items, when so authorized by the Board of Mayor and Aldermen, as may be necessary or desirable to best carry out the purpose of such department or functional unit.

(K) Make use of the most advanced and economical techniques within the capabilities of the city's data processing system in carrying out his duties.

(L) Control all payment of monies into the City Treasury.

(M) Complete a comprehensive annual financial report concerning the preceding fiscal year that details the financial condition and operation of the city during that period in a manner consistent with generally accepted accounting principles not later than 90 days after the close of the fiscal year, unless the Board of Mayor and Aldermen, for good cause, shall extend such period. Said report shall subsequently be audited by an independent certified public accountant. Said audit shall be conducted in accordance with prevailing standards and practices of governmental auditing specified by authoritative national standard setting bodies.

(N) Provide coordination of all department financial information in order to assure the compatibility, continuity and integrity of such information.

(O) Advise the Director of Information Systems with regard to planning, management and operation of all internal department financial information systems.

(P) Carry on a continuing analytical research and planning program in the field of governmental financial management in order to provide for the most effective and efficient information management systems possible.

(Q) Conduct a continuous study of financial operation, needs and resources of the city and compile all information necessary for the preparation of the budget so that each successive budget cycle shall have ready access to all information contained in prior budgets.

(R) Assist the Mayor or his designee to compile a tentative budget and budget document.

(S) Cooperate with the Department of Planning in long-range, financial planning to meet the capital needs of the city.

(T) Provide information and reports to the Mayor or his designee, as the Mayor or Board of Mayor and Aldermen shall request, in order to effectively administer the budget.

(U) Consult with the respective department heads, relative to the establishment, supervision and maintenance of uniform and effective business records, business practices, and business management, and provide the necessary direction to ensure that all financial management procedures and requirements are complied with.

(V) At the request of the Board of Mayor and Aldermen, prepare analytical reports of city programs and functions. Examinations will be conducted and reports prepared in accordance with standards of

governmental auditing and program evaluation specified by authoritative national standard setting bodies. Reports shall contain analysis, appraisals, comments and recommendations relating to the accuracy and competence of accounting, financial, and management procedures in use.

(W) Monitor department activities based on priorities established by budget program and statute in the following areas: revenues, expenses, staffing, space utilization, fleet operations, and such other public service needs as the Board of Mayor and Aldermen shall direct.

(X) Conduct such investigations, analyses, audits, or research into the financial activities and condition or the financial management procedures, or any specific area thereof, of any department for the information of the Board of Mayor and Aldermen. In all such investigation analysis, or research, the Finance Officer shall have the power to examine whatever accounts or records of, or property or things of value held by said department that the Finance Officer deems useful to said investigation, analysis, or research, and shall conduct such investigation, analysis, or research in accordance with governmental auditing standards as promulgated by the Comptroller General of the United States.

(Y) Conduct post-audits of the accounts and records of any city department. The Finance Officer may cooperate with federal officials and agencies in conducting said post-audits.

(Z) Order the audit of the accounts of the City Treasury, at least once each year, by a certified public accountant, selected pursuant to the provisions of the Procurement Code, and designated by the Finance Officer.

(AA) Provide a copy of final draft audit reports to respective department heads and commissions for their review and comment prior to submission to the Board of Mayor and Aldermen.

(AB) Submit a detailed report of every audit conducted pursuant to this section to the Board of Mayor and Aldermen for its approval. After acceptance by the Board of Mayor and Aldermen, a copy of the report shall be given to the Executive Officer of the department concerned. The Executive Officer shall submit a written statement explaining or rebutting the findings of the report to the Board of Mayor and Aldermen.

(AC) Conduct such program result audits of any department as the Board of Mayor and Aldermen shall specifically direct. Program result audits shall be conducted in accordance with governmental auditing standards as promulgated by the Comptroller General of the United States and shall include, but not be limited to, examinations and any determinations based upon the examinations as to whether the results contemplated by the Board of Mayor and Aldermen have been and are being achieved by the department concerned, and whether such objectives could be obtained more effectively through other means. The Board of Mayor and Aldermen shall, at least every ten years, consider the necessity of the review, pursuant to this section, of each city department.

(AD) Provide technical staff assistance in the areas of finance, accounting and budgeting to aldermanic committees and such other committees, including joint committees, as the Board of Mayor and Aldermen may from time to time designate, upon the request of any such committees.

(AE) Prepare fiscal notes and amendments to fiscal notes on all proposed labor contracts. Prepare fiscal impact statements requested by the Board of Mayor and Aldermen.

(AF) Analyze and manage short-term and long-term cash flow requirements.

(AG) Maximize the returns on city investments, considering safety, cash flow, liquidity, and risk.

Manchester, NH Code of Ordinances

(AH) Coordinate and monitor cash needs for investment and debt activity.

(AI) Develop a long-term debt plan, including criteria for the issuance of debt and an evaluation of how much total debt is justified.

(AJ) Prepare an investment policy covering the management of all city funds for approval by the Board of Mayor and Aldermen, annually.

(AK) Evaluate revenue projections for each proposed revenue bond issue and report findings to the Board of Mayor and Aldermen.

(AL) Advise the Board of Mayor and Aldermen on all investment and debt matters, including but not limited to new bond issues, the status of city debt, and the status of city investments.

(AM) Report quarterly or more often if required to the Board of Mayor and Aldermen the total amount of funds in the City Treasury, the amount belonging to each separate fund, a summary of the funds on deposit and the investments held, and the interest income earned thereon, and any information pertaining to the duties of his office he may think proper or that the Board of Mayor and Aldermen may require.

(AN) Perform all other functions of the City Treasury relative to investment and debt management, including but not limited to the making of debt service payments and the sale of bonds.

(AO) Collect, maintain, and provide information on city debt authorized, sold, and outstanding and serve as an information center for all city debt issues.

(AP) Ensure the protection of the city's credit rating.

(AQ) Maintain contact with municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for city debt issues.

(AR) Recommend changes in state law and local practices to improve the sale and servicing of city debt.

(Ord. passed 5-6-97)

§ 35.018 AUDITS.

The cost of any audit done by the Finance Officer or by any other auditor under his direction or authority of any department funded by any self-sustaining or special fund shall be a charge against the appropriate fund, and said cost shall be transferred from said fund to the general fund.

(Ord. passed 5-6-97)

TREASURY

§ 35.020 CITY TREASURY DEPOSITORY OF FUNDS.

(A) The Finance Officer shall be treasurer of and custodian of all money and funds belonging to the city.

(B) No City Official or Clerk shall deposit any city money or funds except in the City Treasury.

(C) All bills sent out by any departments for collection shall be paid to the City Treasury. All cash receipts, including fees for licenses and permits, reimbursements for services or sales made, and receipts from fines and forfeits, shall be deposited into the City Treasury.

(Ord. passed 5-6-97)

§ 35.021 DEPOSITS.

(A) The Finance Officer shall establish deposit procedures for all city departments receiving money for the city. Such procedures shall include, but shall not be limited to, deposits into City Treasury bank accounts, transfers to treasury bank accounts, electronically collecting city monies and authorization of the Finance Officer for the opening of city bank accounts or the usage of the Tax Identification Number (TIN).

(B) All city departments receiving money for the city from sources outside of the City Treasury shall pay the full amount of all said monies intact into the City Treasury daily, weekly, or as often as the Finance Officer shall direct.

(C) When depositing funds, departments shall use only deposit tickets designated for such purpose by the Finance Officer. For each individual deposit, the respective department shall input into the financial system an accurate accounting breakdown for each depository total. Additional detailed information and substantiation, in whatever paper or electronic form as may be required by the Finance Officer, must then be forwarded to the Finance Officer for verification and determination that funds have been credited to the appropriate accounts.

(Ord. passed 5-6-97)

§ 35.022 MAKING PAYMENT FROM TREASURY.

No money shall be paid out of the City Treasury until the Mayor and Aldermen have taken the necessary action to authorize the payment, either by voting an appropriation covering general expenditures to which the payment may be legally charged or by special order directing the Finance Officer to draw a treasury warrant for such payment and specifying to which appropriation the payment shall be charged; except, that any final judgment of court, city note, bond or interest coupon shall be paid out of any money in the City Treasury warrant signed by the Finance Officer.

(Ord. passed 5-6-97)

§ 35.023 COLLECTION OF UNPAID ACCOUNTS RECEIVABLE.

Excepting taxes, assessments, and water utility bills due the city, the Finance Officer shall:

(A) Send or cause to be sent by the Administrative Department, a "second notice" or 30-day statement including new interest and penalty charges as allowable by law for any unpaid account. Penalty and interest charges, in compliance with truth-in-lending laws, shall be charged 30 days from the billing date as allowed for by law. Proper truth-in-lending disclosures shall be printed on invoice as follows:

"A finance charge of 18%, annual percentage rate, will be added to any amount, on this invoice, remaining unpaid thirty (30) days after the date of this invoice."

(B) Send a report to the departments monthly indicating which accounts are over 60 days overdue. Departments shall review the report and forward, at their discretion, departmental billings subject to this section to the Finance Officer (excepting EPD's sewer usage bills, which are forwarded to the Tax Collector) for submission to a contracted collection agency for collection. The Finance Officer shall forward such accounts to a collection agency selected pursuant to the provisions of the Procurement Code, which agency shall resort to the proper legal methods of collection. Agency costs incurred in the collection of the accounts and any interest and penalty charges allowable by law shall be included in the amount collected.

(C) Upon notification from the collection agency that all efforts have been exhausted, for any amount (customer) balance remaining over \$1,000 be forwarded to the City Solicitor's office for further action in Small Claims Court. City Solicitor shall notify Finance of judgement for proper recording.

(D) Upon notification of bankruptcy, agency fees not paid by the customer, accounts over the three year statute of limitations, or accounts determined to be uncollectible, by the collection agency that remain under \$999 be immediately placed on the Write Off List. Write offs will be submitted to the Committee on Accounts quarterly. The Committee on Accounts shall have the discretion to either approve the requested list or determine on a case-by-case basis if further method of collection/legal action is appropriate for any particular account.

(E) Put accounts submitted for write off, sent to Small Claims Court or by request of any city department head immediately on a "cash up front" only basis in the accounts receivable module in HTE. Finance will forward this request to the Building and Citation Departments for their modules as well.

(F) Ensure any account that owes amounts that have been previously written off be allowed only to contract for city services only upon payment of all outstanding old charges excepting bankruptcy proceedings.

(G) Any department head or Finance Officer may petition the Committee on Accounts for exempt status of certain accounts or classes of accounts from this section. Waterworks and airport have been granted special exception to this section.

(Ord. passed 5-6-97; Am. Ord. passed 11-6-02)

§ 35.024 PAYMENT OF TAXES, FEES, AND CHARGES BY CREDIT CARD.

(A) The Finance Officer is hereby authorized to procure and enter into agreements with credit card companies to enable the city to accept payment of taxes, fees, and other charges by credit card.

(B) The procedure established for payment by credit card shall conform to the requirements set forth in R.S.A. 80:52(c) or as amended.

(Ord. passed 5-6-97)

BUDGET PROCEDURES

§ 35.030 COMMITTEE ON FINANCE: APPOINTMENT, COMPOSITION, AND DUTIES.

The Mayor shall, biennially, in the month of January, appoint a Committee on Finance consisting of the Mayor and Aldermen. It shall be the duty of this committee to prepare and lay before the Board of Mayor and Aldermen the annual budget relating to the raising of money and making appropriations for the ensuing fiscal year, and all resolutions relating to the raising of money by taxation, loan, or otherwise, stating the amount necessary to be raised and the objects and purposes for which it shall be expended.

(Ord. passed 5-6-97)

§ 35.031 COMMITTEE ON ACCOUNTS.

(A) There shall be appointed biennially by the Mayor a Standing Committee on Accounts, consisting of five members of the Board of Mayor and Aldermen, which Committee shall meet at least every month and carefully examine and audit all accounts of the city, which shall be laid before them, and shall allow and pass the same if found to be correct and justly due.

(B) In addition to any other reports required by law or by the Board of Mayor and Aldermen to be submitted by the Finance Officer, he shall submit to the members of the Aldermanic Accounts, Enrollment and Revenue Administration Committee a report of the results of post-audits, program result audits, and investigations he has conducted since the date of his last such report. The Committee shall determine which Aldermanic policy committees shall receive reports pursuant to this section.

(Ord. passed 5-6-97)

§ 35.032 REVENUE STABILIZATION RESERVE ACCOUNT.

(A) There is hereby established within the general fund a revenue stabilization reserve account. At the close of each fiscal year, one-half of any general fund operating surplus, as determined by the official audit performed pursuant to § 35.017(Z) of this chapter, shall be transferred by the Finance Officer to a special nonlapsing revenue stabilization reserve account. The Finance Officer is hereby directed to establish the revenue stabilization reserve account in which to transfer funds from any general fund operating surplus.

(B) In the event of a general fund operating deficit at the close of any fiscal year, as determined by the official audit performed pursuant to § 35.017(Z) of this chapter, the Finance Officer shall notify the Board of Mayor and Aldermen of such deficit and request that sufficient funds, to the extent available, be transferred from the revenue stabilization reserve account to eliminate such deficiency. Such a transfer shall be requested only when both of the following conditions have been met:

(1) A general fund operating deficit occurred for the most recently completed fiscal year.

(2) Unrestricted general fund revenues in the most recently completed fiscal year were less than the budget forecast.

(C) The amount of the transfer requested shall not exceed a sum equal to the lower of the amount of the deficit in division (B)(1) of this section or the revenue shortfall in division (B)(2) of this section. Upon receipt of approval from the Board of Mayor and Aldermen, the Finance Officer shall immediately transfer the sums so approved to the general fund undesignated fund balance.

(D) No available balance in the revenue stabilization reserve account shall be utilized for any purpose other than those authorized by division (C) of this section, without the specific approval of two-thirds of the Aldermen-elect.

(E) If, after the requirements of divisions (A) through (D) of this section have been met and the balance in the revenue stabilization reserve account is in excess of an amount equal to five percent of the actual general fund operating expenditures, as determined by the official audit performed pursuant to § 35.017(M) of this chapter, for the most recently completed fiscal year, then such excess shall be transferred, without further action, to the general fund unrestricted fund balance.

(Ord. passed 5-6-97)

§ 35.033 SPECIAL REVENUE RESERVE ACCOUNT.

(A) There is hereby established within the general fund a special revenue reserve account into which one-time, general fund revenues, as defined in division (B) of this section, shall be deposited. The Finance Officer shall segregate principal in the account from earnings realized from the investment of the balance in the account.

(B) One-time revenues for the purpose of this section shall be defined as those revenues considered to be nonrecurring in nature or infrequent in receipt. Examples of one-time revenues include, but are not limited to: proceeds from the sale of government assets, sale of tax deeded property, development fees, and shared revenues from economic development projects, settlement proceeds and insurance proceeds.

(C) The Board of Mayor and Aldermen may subdivide the balance in the special revenue reserve

account to designate a portion or portions for a specific purpose or purposes subject to division (D) of this section.

(D) The Board of Mayor and Aldermen may appropriate the balance or a portion of the balance during the development of the annual budget subject to the following conditions:

(1) The Board of Mayor and Aldermen may appropriate principal, or any investment earnings thereon, for capital purchases (i.e. motorized equipment, building renovations).

(2) The Board of Mayor and Aldermen may appropriate an amount not to exceed 75% of the investment earnings from the prior fiscal year for recurring operating expenses (i.e. textbooks).

(E) No available balance in the special revenue reserve account shall be utilized for any purpose other than those authorized herein, without the specific approval of two-thirds of the Aldermen-elect.

(Ord. passed 11-6-02)

§ 35.034 TAX RATE STABILIZATION RESERVE ACCOUNT.

(A) There is hereby established within the general fund a tax rate stabilization reserve account. At the close of each fiscal year, the balance of the combined, city and school district, general fund undesignated fund balance, as determined by the official audits performed pursuant to § 35.017(Z) of this chapter, in excess of 1% of the total property tax commitment for the prior tax year, as determined by the Department of Revenue Administration, shall be transferred by the Finance Officer to a special nonlapsing tax rate stabilization account. The Finance Officer is hereby directed to establish the tax rate stabilization reserve account in which to transfer funds from any general fund undesignated fund balance surplus.

(B) In the event the combined general fund undesignated fund balance, as determined by the official audits performed pursuant to § 35.17(Z) of this chapter, is less than 1% of the total property tax commitment for the prior tax year, as determined by the Department of Revenue Administration, the Finance Officer shall transfer funds from the tax rate stabilization reserve account to the extent required to restore the combined general fund undesignated fund balance to 1% of the total property tax commitment for the prior tax year.

(C) The Board of Mayor and Aldermen may apply the balance or a portion of the balance against the subsequent year's property tax requirement subject to the following conditions:

(1) The Board of Mayor and Aldermen may apply a maximum of 50% of the balance against the projected tax rate during the development of the annual budget, subject to division (C)(2) of this section.

(2) The amount applied against the projected tax rate during the development of the annual budget shall not exceed the amount applied for the prior fiscal year by more than 10%.

(3) In the event that no funds were transferred into the tax rate stabilization reserve account for the prior fiscal year, the Board of Mayor and Aldermen may apply the remaining balance or a portion of the remaining balance, subject to division (C)(2) of this section, against the projected tax rate during the development of the annual budget.

(4) After the adoption of the annual budget, the Board of Mayor and Aldermen may apply

the remaining balance, or reduce the amount applied against the tax rate, if the non-property tax revenues or net assessed valuation report to the Department of Revenue Administration are materially different, defined herein as 1%, from those estimated during the budget development process. The amount of the additional application or reduction shall be limited to the amount required to equalize the actual tax rate with the projected tax rate.

(D) No available balance in the tax rate stabilization reserve account shall be utilized for any purpose other than those authorized herein, without the specific approval of two-thirds of the Aldermen-elect.

(E) If, after the requirements of divisions (A) and (B) of this section have been met and the balance in the tax rate stabilization reserve account, as determined by the official audits performed pursuant to § 35.17(Z) of this chapter, is in excess of an amount equal to 5% of the property tax commitment for the prior tax year, as determined by the Department of Revenue Administration, then such excess shall be transferred, without further action, to the general fund undesignated fund balance.

(Ord. passed 11-6-02)

§ 35.035 RISK RETENTION RESERVE ACCOUNTS.

(A) There is hereby established within the general fund a health claims risk retention reserve account. At the close of each fiscal year, the general fund annual budget surplus for health insurance, as determined by the official audits performed pursuant to § 35.017(Z) of this chapter, shall be transferred by the Finance Officer to a special nonlapsing health claims risk retention reserve account. The Finance Officer is hereby directed to establish the health claims risk retention account in which to transfer funds from any general fund undesignated fund balance.

(B) There is hereby established within the general fund a workers' compensation risk retention reserve account. At the close of each fiscal year, the general fund annual budget surplus for workers' compensation insurance, as determined by the official audits performed pursuant to § 35.017(Z) of this chapter, shall be transferred by the Finance Officer to a special nonlapsing workers' compensation risk retention account in which to transfer funds from any general fund undesignated fund balance.

(C) There is hereby established within the general fund a casualty and general liability risk retention reserve account. At the close of each fiscal year, the general fund annual budget surplus for casualty and general liability insurance, as determined by the official audits performed pursuant to § 35.017(Z) of this chapter, shall be transferred by the Finance Officer to a special nonlapsing casualty and general liability risk retention reserve account. The Finance Officer is hereby directed to establish the casualty and general liability risk retention reserve account in which to transfer funds from any general fund undesignated fund balance.

(D) The general fund annual budget surplus for health insurance, workers compensation insurance or casualty and general liability insurance shall be determined on an individual, line-item basis as the difference between the annual general fund-wide budget in excess of the annual general fund-wide expenditures, respectively.

(E) In the event an annual budget deficit shall occur in the health insurance workers' compensation insurance or casualty and general liability insurance individual line-item, the Finance Officer shall transfer funds from the respective risk retention account to the general fund undesignated fund balance to cover the

deficit.

(F) If, after the requirements of divisions (A) and (E) of this section have been met and the balance in the health claims risk retention reserve account exceeds 25% of the subsequent fiscal year's general fund appropriation, then the excess shall be transferred into the workers' compensation risk retention reserve account subject to the requirements of division (I) of this section.

(G) If, after the requirements of divisions (B) and (E) of this section have been met and the balance in the workers' compensation risk retention reserve account exceeds reserve requirements, as determined by the most recent actuarial report, then the excess shall be transferred into the casualty and general liability risk retention reserve account subject to the requirements of division (I) of this section.

(H) If, after the requirements of divisions (C) and (E) of this section have been met and the balance in the casualty and general liability risk retention reserve account exceeds reserve requirements, as determined by the most recent actuarial report, then the excess shall be transferred into the health claims risk retention reserve account subject to the requirements of division (I) of this section.

(I) In no event shall funds be transferred into a risk retention reserve account if the balance in the account is at the maximum balance as determined in divisions (F), (G), and (H) of this section.

(J) In the event that each risk retention account is funded to the maximum balance as determined in divisions (F), (G), and (H) of this section, the Finance Officer shall not transfer any additional funds into the accounts and shall transfer any excess funds to the general fund undesignated fund balance.

(K) No available balance in a risk retention reserve account shall be utilized for any purpose other than those authorized herein, without the specific approval of two-thirds of the Aldermen-elect.

(Ord. passed 11-6-02)

REPORTING VIOLATIONS

§ 35.040 MAYOR TO INVESTIGATE AND REPORT VIOLATIONS.

It shall be the duty of the Mayor to investigate all violations of this chapter and report the facts as ascertained to the Board of Mayor and Aldermen.

(Ord. passed 5-6-97)

CHAPTER 36: TAXATION

Section

General Provisions

- 36.01 Payment
- 36.02 Date payable; notice; collection
- 36.03 Set-offs by city
- 36.04 Interest when not paid; collection and accounting
- 36.05 Real estate tax lien procedure

Board of Assessors

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- 36.11 [Reserved]
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Tax Collector

- 36.30 Office of the Tax Collector established
- 36.31 Performance bond required
- 36.32 Notice to persons taxed
- 36.33 Warrant required for collection
- 36.34 Surrender of property to successor
- 36.35 Special account for taxes and assessments
- 36.36 Board to appropriate money for office

Custodian of Tax-Deeded Properties

- 36.50 Appointment; term
- 36.51 Oath of office
- 36.52 Term of office
- 36.53 Authority and duties

Cross-reference:

Attendance of City Solicitor at tax sales, see § 30.46

Finance, see Ch. 35

GENERAL PROVISIONS

§ 36.01 PAYMENT.

All bills for taxes and assessments shall be paid to the Tax Collector.

('71 Code, § 24-1)

§ 36.02 DATE PAYABLE; NOTICE; COLLECTION.

(A) All taxes due the city shall be deemed due and payable at the office of the Collector of Taxes immediately after September 1, and earlier if in the judgment of the Collector of Taxes, the collection of the taxes would be jeopardized by such delay, except that poll taxes shall be paid to the Collector of Taxes on demand, without previous notice.

(B) The Collector of Taxes shall give a notice to all persons whose taxes due the city remain unpaid, and if such taxes shall not be paid within 14 days thereafter, together with \$.20 for such notice, the Collector of Taxes shall proceed to collect the same according to R.S.A. 80:5.

('71 Code, § 24-2)

§ 36.03 SET-OFFS BY CITY.

The taxes due the city from any person shall in all cases be deducted from any money which may become due such person from the city, and such person shall only receive the balance over and above the amount due for taxes.

('71 Code, § 24-3)

§ 36.04 INTEREST WHEN NOT PAID; COLLECTION AND ACCOUNTING.

(A) Upon all taxes remaining unpaid on December 1 in each year, interest shall be paid by the delinquent taxpayer from and after December 1 in each year until paid in full as provided for under R.S.A. 76:13 and 76:15-a.

(B) The Collector of Taxes is authorized and directed to collect such interest, and to keep an account of all interest received, with the names of the taxpayers and the time of payment, and lay the same before the Board of Mayor and Aldermen on or before the last Saturday in February in each year.

('71 Code, § 24-4)

§ 36.05 REAL ESTATE TAX LIEN PROCEDURE.

The city hereby adopts the provisions of R.S.A. 80:58 through 86, as it may be amended from time to time, relative to Real Estate Tax Liens and Municipal Tax Sale Practices, effective upon passage. The Collector of Taxes should be responsible for carrying out the requirements of such provisions of state law.

('71 Code, § 24-5) (Ord. passed 4-19-88)

Statutory reference:

Real estate tax liens and municipal tax sale practices, see R.S.A. 80:58 et seq.

BOARD OF ASSESSORS

§ 36.10 BOARD OF ASSESSORS ESTABLISHED.

(A) *Creation and composition.* Pursuant to Charter § 3.02 there is established a Board of Assessors consisting of three full time assessors who shall be appointed as provided by Charter § 3.07.

(B) *Department head.* The department head of the Board of Assessors shall be one of the Board who shall be appointed as provided by Charter § 3.07. The department head shall also be the Chairman of the Board of Assessors.

(C) The Board of Assessors shall be responsible for the affixing of an assessed valuation upon all properties liable to taxation for ad valorem taxation, shall administer all tax abatement and statutory exemption requests and oversee city-wide revaluations. The Board shall also collect, supervise and preserve all data relative to taxable, non-taxable and tax exempt properties within the city and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 36.11 [RESERVED].

§ 36.12 [RESERVED].

§ 36.13 [RESERVED].

§ 36.14 [RESERVED].

§ 36.15 ISSUANCE OF WARRANT FOR COLLECTION; NOTICE TO CITY AUDITOR.

(A) The Board of Assessors shall issue a warrant on the Collector of Taxes for the collection of all taxes and assessments due the city and they shall simultaneously notify the City Auditor of all such warrants issued.

(B) The City Auditor shall charge the Collector of Taxes on the city's general ledger with the amount of all warrants issued.

('71 Code, § 24-15)

Statutory reference:

Choice, see R.S.A. 48:12

Authority to issue warrants for collection, see R.S.A. 48:13

Assistants, see R.S.A. 48:14

Warrants, see R.S.A. 48:15

§ 36.16 RECORDS AND REPORTS OF ABATEMENTS.

The Board of Assessors shall keep a record of all taxes abated and shall issue an annual report of total abatements, by levies. The records shall be kept in such form as to show a separation by levies, of poll, personal and property taxes and both assessments, abatements made before payments, abatements made after payments, and reassessments, and the monthly report of the City Auditor shall accurately specify these details.

('71 Code, § 24-16)

Statutory reference:

Abatement power, R.S.A. 48:13

§ 36.17 ABATEMENT BEFORE PAYMENT.

Upon the abatement of any unpaid tax or taxes, the Board of Assessors shall make certificates thereof, and of the amounts so abated, with the reasons therefor, and shall thereupon deliver the certificates to the Collector of Taxes, who has in his hands, for collection, the tax or taxes so abated, and shall report to the City Auditor the sum or sums so abated and certified, each month, and these abatements shall be credited to the Collector.

('71 Code, § 24-17)

§ 36.18 ABATEMENT AFTER PAYMENT.

If any abated tax has been previously paid into the city treasury, a certificate from the Board of Assessors, approved by the Board of Mayor and Aldermen, shall be sufficient authority for the City Auditor to draw a warrant on the City Treasurer for the amount so abated to the person in whose favor the certificate shall

be drawn. The amount shall be charged to the appropriation for tax refund.

('71 Code, § 24-18)

TAX COLLECTOR

§ 36.30 OFFICE OF THE TAX COLLECTOR ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established an Office of the Tax Collector.

(B) *Department head.* The department head shall be the Tax Collector who shall be appointed as provided by Charter § 3.03. The Tax Collector shall also be the custodian of tax deeded property for the city.

(C) The Office of the Tax Collector shall be responsible for the collection of taxes, central business service district assessments, and delinquent wastewater bills and shall record liens on the delinquent real estate as authorized by law. The Office of the Tax Collector shall also administer motor vehicle registrations and shall perform such other duties as are prescribed by federal, state and local law.

('71 Code, § 24-29) (Ord. passed 11-4-98)

Statutory reference:

Appointment and removal, see R.S.A. 47:14

Jurisdiction, see R.S.A. 48:11

§ 36.31 PERFORMANCE BOND REQUIRED.

The Collector of Taxes shall give bonds with sureties satisfactory to the Board of Mayor and Aldermen for the faithful performance of his duties.

('71 Code, § 24-30)

Statutory reference:

Authority of city to impose bond, see R.S.A. 47:14

§ 36.32 NOTICE TO PERSONS TAXED.

The Collector of Taxes shall immediately, on the receipt of the tax-list from the Board of Assessors, notify every person taxed by delivering to him personally, or by leaving at his usual place of abode, an itemized copy of his tax bill, containing a list of all property, the location of same, and the assessors' valuation, with a demand for immediate payment.

('71 Code, § 24-31)

§ 36.33 WARRANT REQUIRED FOR COLLECTION.

The Collector of Taxes shall collect no money in payment of taxes or assessments until after the receipt of a warrant from the Board of Assessors duly authorizing such collection.

('71 Code, § 24-32)

§ 36.34 SURRENDER OF PROPERTY TO SUCCESSOR.

The Collector of Taxes shall surrender to his successor in office all moneys, books, papers, including the list of uncollected taxes, and other property pertaining to his office.

('71 Code, § 24-35)

§ 36.35 SPECIAL ACCOUNT FOR TAXES AND ASSESSMENTS.

The City Auditor shall open an account with the Collector of Taxes, wherein the Collector of Taxes shall be charged with the amount of assessments and taxes placed in his hands for collection.

('71 Code, § 24-36)

§ 36.36 BOARD TO APPROPRIATE MONEY FOR OFFICE.

The Board of Mayor and Aldermen shall make such appropriations as shall seem to them just and necessary for the employment of deputies who shall be chosen by the Collector of Taxes and for such other expenses as may be necessarily incurred by the Collector of Taxes for the prompt and efficient discharge of the duties of his office.

('71 Code, § 24-37)

CUSTODIAN OF TAX-DEEDED PROPERTIES

§ 36.50 APPOINTMENT; TERM.

The Board of Mayor and Aldermen shall appoint an able and competent person to be titled “custodian of tax-deeded properties.”

('71 Code, § 24-48)

§ 36.51 OATH OF OFFICE.

The custodian of tax-deeded properties shall be sworn to the faithful discharge of his duty and all moneys belonging to the city which shall come into his hands shall be deposited with the City Treasurer.

('71 Code, § 24-49)

§ 36.52 TERM OF OFFICE.

The custodian of tax-deeded properties shall hold office for a term of two years or until such time that his successor is named and qualified.

('71 Code, § 24-50)

§ 36.53 AUTHORITY AND DUTIES.

The custodian of tax-deeded properties shall have full supervision over all properties deeded to the city for nonpayment of taxes and it shall be his duty to make all necessary arrangements with the former owners relative to redeeming their property, or properties, all arrangements made to be subject to the approval of the Special Tax Committee; provided, however, that any conveyance of the property, or properties, shall be subject to the approval of the Board of Mayor and Aldermen.

('71 Code, § 24-51)

CHAPTER 37: CENTRAL BUSINESS SERVICE DISTRICTS

Section

- 37.01 Establishment
- 37.02 Proposed district
- 37.03 Advisory Board
- 37.04 Consultation
- 37.05 Budget
- 37.06 Services
- 37.07 Assessment and collection
- 37.08 Interest and penalty charges

§ 37.01 ESTABLISHMENT.

Central Business Service Districts as authorized by R.S.A. 31:120 through 31:125 shall be established in accordance with the provisions of this chapter.

('71 Code, § 7½-1) (Ord. passed 6-5-84)

§ 37.02 PROPOSED DISTRICT.

Whenever the Board of Mayor and Aldermen shall find that consideration should be given to the establishment of a Central Business Service District, it shall specifically define the proposed district and shall provide for the appointment of an Advisory Board as provided in § 37.03 of this chapter.

('71 Code, § 7½-2) (Ord. passed 6-5-84)

§ 37.03 ADVISORY BOARD.

The Advisory Board shall consist of seven members, not less than five of them shall be owners or tenants of property within the proposed district. Owner-tenant members shall be known as district members. Other members shall be known as at-large members. District members shall serve for a term of five years and until their successors are appointed and qualified. Should a district member cease to be an owner-tenant within the district, a vacancy shall occur. At-large members shall serve a term of three years and until their successors are appointed and qualified. They shall be residents of the city, and on removal from the city, a vacancy shall occur.

('71 Code, § 7½-3) (Ord. passed 6-5-84)

§ 37.04 CONSULTATION.

Proposed new Business Service Districts shall be referred to the Advisory Board for study and recommendation and the Board of Mayor and Aldermen shall consult with the Advisory Board in defining the Business Service District. The Board of Mayor and Aldermen shall consult with the Advisory Board before making any changes in the boundary of any existing Business Service District.

('71 Code, § 7½-4) (Ord. passed 6-5-84)

§ 37.05 BUDGET.

The Board of Mayor and Aldermen shall appropriate a budget to a Central Business Service District account during the annual city budget process. This Central Business Service District account shall be administered by the City Coordinator or his designee.

('71 Code, § 7½-5) (Ord. passed 6-5-84)

§ 37.06 SERVICES.

The Board of Mayor and Aldermen shall consult with the Advisory Board of the Business Service District in selecting specific services and levels of services to be provided in the district. These services shall be administered by the City Coordinator, his designee, or in the absence of the City Coordinator, the Planning Director or his designee.

('71 Code, § 7½-6) (Ord. passed 6-5-84; Am. Ord. passed 12-19-95)

§ 37.07 ASSESSMENT AND COLLECTION.

(A) The Board of Mayor and Aldermen may levy an assessment in an amount not greater than the appropriated budget against the owners of property within the Business Service District. The assessment shall be determined at the completion of the budget process.

(B) The assessment shall be made upon the owners of property within the Business Service District as of April 1 of each year or to the current owner if known.

(C) The assessment made against each property shall be based upon the assessed value of the property as a percentage of the total assessed value of the district. The assessed values of the properties shall be determined by the Board of Assessors.

(D) The Board of Assessors shall submit all Business Service District assessments to the Collector of Taxes with a warrant under their hands and seal requiring him to collect them; and he shall have the same rights and remedies and be subject to the same liabilities in relation thereto as in the collection of taxes as set forth in R.S.A. Ch. 80.

('71 Code, § 7½-7) (Ord. passed 6-5-84; Am. Ord. passed 10-1-85; Am. Ord. passed 9-5-95)

§ 37.08 INTEREST AND PENALTY CHARGES.

Delinquent accounts are subject to such interest and late payment charges as are provided in the case of real estate taxes.

('71 Code, § 7½-8) (Ord. passed 6-5-84)

CHAPTER 38: CODE ENFORCEMENT

Section

38.01	Citation authority
38.02	Departments authorized to issue citations
38.03	Ordinance violations bureau established
38.04	Citation defined; contents
38.05	Service of citation
38.06	Citation penalties
38.99	Penalty

§ 38.01 CITATION AUTHORITY.

City departments or officials charged with the responsibility for enforcing the ordinances and codes of the city are hereby authorized to issue citations for any violation of the ordinances or codes that they are responsible for enforcing. The enforcement authority provided hereby is in addition to the authority for ordinance and code enforcement that currently exists.

('71 Code, § 17³/₄-6) (Ord. passed 9-1-87)

§ 38.02 DEPARTMENTS AUTHORIZED TO ISSUE CITATIONS.

The heads of the Fire, Building, Health, and Housing Code Departments and the City Clerk's office and/or employees designated by the heads of those departments are hereby authorized to issue such citations.

('71 Code, § 17³/₄-7) (Ord. passed 9-1-87; Am. Ord. passed 6-21-94; Am. Ord. 10-1-96)

§ 38.03 ORDINANCE VIOLATIONS BUREAU ESTABLISHED.

An Ordinance Violations Bureau is hereby established for the purpose of processing citations issued by the department authorized to do so. The Bureau shall administratively be part of the Police Department and shall, in conjunction with the departments involved, be responsible for preparing citation forms, distributing these forms to the departments as needed, and collecting, accounting for, and depositing all monies received from citation penalties according to procedures established by the Finance Officer. Additionally, the Bureau shall be responsible for initiating the appropriate judicial proceedings with regard to citations that are not paid.

('71 Code, § 17³/₄-8) (Ord. passed 9-1-87)

§ 38.04 CITATION DEFINED; CONTENTS.

A citation is a written and/or printed notice describing a specific violation of a city ordinance or code which is served on the person responsible for the violation. Each day on which a violation exists or occurs is a separate offense, and a citation may be issued for each offense. A citation shall be served in the manner described in this chapter, and shall contain the following information:

- (A) A clear and concise description of the violation.
- (B) The location of the violation and the date and time on which it was observed.
- (C) The name and address of the person responsible for the violation.
- (D) The penalty for the violation as provided for in this chapter.
- (E) A statement or table describing the penalties for future occurrences of the same violation.
- (F) A statement as to whether the citation is being issued for a first, second, or subsequent offense.
- (G) The name and address of the office to which the payment of the penalty may be made.
- (H) The time period during which a reduced penalty may be paid in full satisfaction of the citation.
- (I) Notification that failure to pay the penalty will result in court action.
- (J) The signature and printed name and department of the individual issuing the citation.

('71 Code, § 17³/₄-9) (Ord. passed 9-1-87)

§ 38.05 SERVICE OF CITATION.

- (A) Any citation shall be served by the official issuing it in any one of the following ways:
 - (1) In hand to the person responsible for the violation.
 - (2) At the abode of the person responsible for the violation.
 - (3) By certified or registered mail, return receipt requested, to the last known address of the person responsible for the violation.
 - (4) In any other manner permitted by the laws of the state.
- (B) The official serving the citation shall maintain a record of the date, time, and manner of service of the citation including the post-office receipt and return receipt if service was accomplished by registered or certified mail.

('71 Code, § 17³/₄-10) (Ord. passed 9-1-87)

§ 38.06 CITATION PENALTIES.

(A) The penalties for any offense relating to the following sections for which a citation has been issued shall be as follows:

<i>Code Section</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third Offense</i>
70.08	\$50	\$100	Court Appearance
70.28	\$300	\$500	\$1,000
70.40	\$100	\$200	Court Appearance
72.22	\$10	\$25	Court Appearance
90.04	\$25	\$50	Court Appearance
90.12	\$25	\$50	Court Appearance
91.64	\$100	\$200	\$300
91.65	\$100	\$200	\$300
91.66	\$100	\$200	\$300
91.67	\$100	\$200	\$300
91.68	\$500	Court Appearance	
91.69	\$100	\$200	\$300
91.70	\$500	Court Appearance	
91.71	\$100	\$200	\$300
91.72	\$500	Court Appearance	
91.73	\$100	\$200	\$300
91.74	\$100	\$200	\$300
91.75	\$100	\$200	\$300
94.02	\$100	\$250	Court Appearance
94.03	\$100	\$250	Court Appearance

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<i>Code Section</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third Offense</i>
96.04	\$50	\$100	Court Appearance
97.16	\$25	\$50	Court Appearance
97.17	\$25	\$50	Court Appearance
110.02	\$200	\$300	Court Appearance
110.05	\$100	\$200	Court Appearance
111.51	\$500	\$500	Court Appearance
115.40	\$200	\$300	Court Appearance
130.01	\$50	\$100	Court Appearance
130.02	\$50	\$100	Court Appearance
130.04	\$100	\$200	Court Appearance
130.06	\$50	\$100	Court Appearance
130.20	\$100	\$200	Court Appearance
130.23	Court Appearance		
130.24	\$50	\$100	Court Appearance
130.36	\$100	\$200	Court Appearance
130.38	\$25	\$50	Court Appearance
130.39	\$50	\$100	Court Appearance
130.40	\$100	\$200	Court Appearance
150.023	\$100	\$200	\$300
150.060	\$100	\$200	\$300
150.061	\$100	\$200	\$300
150.062	\$100	\$200	\$300
150.063	\$100	\$200	\$300

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<i>Code Section</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third Offense</i>
150.064	\$100	\$200	\$300

(B) The penalties for any other offense for which a citation has been issued shall be as follows:

- (1) First offense - \$50 if paid within seven days; \$100 thereafter.
- (2) Second offense - \$100 if paid within seven days; \$200 thereafter.
- (3) Subsequent offense - \$200 if paid within seven days; \$400 thereafter.

('71 Code, § 17³/₄-11) (Ord. passed 9-1-87; Am. Ord. passed 10-1-96; Am. Ord. passed 5-6-97; Am. Ord. passed 4-6-99; Am. Ord. passed 8-3-99; Am. Ord. passed 12-7-99; Am. Ord. passed 12-18-01; Am. Ord. passed 4-16-02; Am. Ord. passed 4-15-03; Am. Ord. passed 10-5-04)

§ 38.99 PENALTY.

Whenever any person fails to pay any penalty imposed pursuant to a citation issued under the authority granted by this chapter, such person shall be guilty of a violation and shall, upon conviction, be punished by a fine not to exceed the maximum allowed by R.S.A. 47:17 or other law for each offense. Each citation penalty which is not paid shall constitute a separate offense.

('71 Code, § 17³/₄-2) (Ord. passed 9-1-87)

CHAPTER 39: PROCUREMENT CODE

Section

- 39.01 Application of provisions
- 39.02 Department purchasing responsibility
- 39.03 Small purchases
- 39.04 Competitive sealed bidding
- 39.05 Major construction projects; prequalification of bidders
- 39.06 Negotiations after competitive sealed bidding
- 39.07 Competitive sealed proposals
- 39.08 Professional services
- 39.09 Special purchase procedures
- 39.10 Approval required
- 39.11 Conflict of interest; disqualification
- 39.12 Pecuniary benefit
- 39.13 Disclosure

39.14 Savings provision

§ 39.01 APPLICATION OF PROVISIONS.

All purchases by the city for materials, supplies, services, construction, and other items shall be made in accordance with the provisions of this subchapter.

(Ord. passed 2-16-99)

§ 39.02 DEPARTMENT PURCHASING RESPONSIBILITY.

The Fire Commission, the Board of Health, the Highway Commission, the Parks and Recreation Commission, the Police Commission, the Airport Authority, the Water Commission, and Board of School Committee shall be responsible for making all purchases, except for purchases of motor vehicles, from funds appropriated to their respective departments. The boards, commissions, and authorities may assign responsibility for budget expenditures under small purchase procedures to the department head. Other department heads and city officers shall be responsible for making purchases from funds appropriated to their respective departments. Purchases from nondepartmental appropriations shall be made by the Finance Officer unless otherwise indicated in the budget. The Fleet Management Department shall be responsible for making all purchases of motor vehicles. The agency or official responsible for purchasing as herein set forth is hereafter referred to as the purchasing agency.

(Ord. passed 2-16-99)

§ 39.03 SMALL PURCHASES.

(A) *Total price less than \$1,000.* Where the total price of a purchase is less than \$1,000 it shall be the responsibility of the purchasing agency, after adequate inquiry, to make the purchase on the basis of price and quality.

(B) *Total price \$1,000 to \$10,000.* Where the total price is greater than \$1,000 but less than \$10,000, purchase shall be made on the basis of evaluation of written or documented oral price or rate quotations from an adequate number of suppliers. Such price and rate quotations, the date of such quotations and the names of suppliers shall be documented.

(Ord. passed 2-16-99)

§ 39.04 COMPETITIVE SEALED BIDDING.

(A) Except as hereafter provided, all purchases in excess of \$10,000 shall be made by competitive

sealed bidding and contracts shall be awarded to the lowest responsible bidder.

(B) Competitive sealed bidding procedures shall at a minimum incorporate the following features:

(1) Formal bid specifications which shall at a minimum include the general terms and conditions of the proposed purchase, requirements of the bidder, form of contract, and the forms for submission of bids.

(2) Product or service specifications which shall accurately describe the product or service required in such a manner as to not preclude competition; in the event specific manufacturer's names or models are used to describe the product or service, a minimum of two manufacturers' names shall be used and there shall be provision for the approval of an equal product or service.

(3) Adequate public notice, of a minimum of five working days, prior to the date set forth therein for the opening of bids; such notice shall include publication in a newspaper of general circulation.

(4) Sealed bids shall be opened publicly at the time and place designated in the invitation for bids.

(5) The award of bids shall be formalized through the execution of a written contractual agreement.

(Ord. passed 2-16-99)

§ 39.05 MAJOR CONSTRUCTION PROJECTS; PREQUALIFICATION OF BIDDERS.

(A) In the case of contracts for the construction, reconstruction, alteration, repair, or refurbishing of real property where the estimated cost of the project is in excess of \$100,000, a determination of the responsibility of interested contractors shall precede the issuance of invitations to bid. Invitations to bid shall be issued only to firms which have, in the city's sole determination, been prequalified.

(B) The department or agency involved shall establish rules and regulations which govern prequalification of bidders, of which said rules and regulations shall take into consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required.

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgment, experience, efficiency of the bidder.

(4) The quality of performance of previous contracts or services.

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract

or provide the service.

- (7) The quality, availability, and adaptability of the supplies or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- (9) The number and scope of conditions attached to the bid.
- (10) The amount of total direct and indirect costs which would accrue to the city on account of the bid.
- (C) These rules and regulations may also include other special considerations as may be authorized by law.

(Ord. passed 2-16-99)

§ 39.06 NEGOTIATIONS AFTER COMPETITIVE SEALED BIDDING.

The purchasing agency shall reserve the right to reject any and all bids together with the right to negotiate with the lowest responsible bidder for a lower bid price.

(Ord. passed 2-16-99)

§ 39.07 COMPETITIVE SEALED PROPOSALS.

(A) (1) In cases where competitive sealed bidding is not practical, the Board of Mayor and Aldermen on written request may authorize that a purchase be made on the basis of the evaluation of competitive sealed proposals and resultant competitive negotiations.

(2) In determining whether competitive sealed bidding is practical, the Board shall consider factors such as the following:

- (a) Whether the cost to develop formal technical bid specifications sufficient to insure open competitive bids would make the total cost of the procurement excessive.
- (b) Whether the proposed purchase is to be accompanied by land, development, or other related economic transactions, so that the bid price may not accurately reflect the total economic effect of the purchase.
- (c) Whether the product or service is specialized or custom-produced, and the development of terms, conditions, specifications, and other provisions specifically defining and governing the procurement requires interaction with prospective suppliers.
- (d) In cases where no responsible bidder has submitted a bid in response to the

invitation.

(B) (1) On determination by the Board of Mayor and Aldermen that competitive sealed bidding is not practical and that the purchase should be made on the basis of the evaluation of competitive sealed proposals and competitive negotiations, the purchasing agency shall:

(a) Develop general terms and conditions and specifications for the product or service required.

(b) In such cases where the award is not necessarily to be made on the basis of lowest negotiated price, the request for proposals shall indicate the relative importance of price and other significant evaluation factors which shall be defined.

(c) Provide adequate public notice as in the case of competitive sealed bids.

(d) Sealed proposals shall be opened at the time and place designated in request for proposals.

(2) After the opening and evaluation of competitive sealed proposals, written or verbal negotiations should be conducted with one or more parties who have submitted proposals. Such negotiations are designed to achieve terms and conditions most favorable to the city. Such negotiations need not be conducted where time constraints preclude additional negotiations or where the purchasing agency certifies that acceptance of an initial offer without discussion would result in fair and equitable prices and that further negotiations would not result in terms and conditions more favorable to the city.

(Ord. passed 2-16-99)

§ 39.08 PROFESSIONAL SERVICES.

In the purchase of accounting, architectural, auditing, engineering, legal and medical services and purchases of independent professional consultant services for personnel, data processing, insurance, actuarial, planning, management, and other comparable purchases in excess of \$10,000, the following procedures shall be followed:

(A) An invitation shall be developed which will include a description of the scope of services and desired result and which shall request qualifications and an expression of interest.

(B) The invitation shall be given adequate public notice by posting in two public places and in the case of purchases in excess of \$10,000 by publication in a newspaper of general circulation.

(C) Depending on the scope of the project, up to six applicants shall be selected to submit formal proposals. In the case of contracts in excess of \$10,000, at least three applicants shall be selected provided there are three interested applicants.

(D) The purchasing agency shall develop a request for proposals, including terms, conditions, and other requirements and identifying the purpose of the work, the result desired, the specific work tenements the consultant is expected to perform, and the responsibilities of the applicant and the city.

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(E) Proposals shall be evaluated and selection made on the basis of demonstrated competence and qualification for the services required at a fair and reasonable price. In addition to price, and where applicable to a particular project, factors such as the following shall be used in awarding the contract:

- (1) Specific experience with similar projects.
- (2) Specific experience with earlier phases of the same project.
- (3) Background and experience of staff members who would be assigned to the job.
- (4) Availability.
- (5) Locality of firm.
- (6) Ability to communicate ideas.
- (7) Ability to supply all of the major disciplines necessary to perform the work.
- (8) Qualifications of subcontractors.
- (9) Conceptual design.
- (10) Accuracy of the firm in estimating time and cost requirements.

(F) Interviews may, and in the case of contracts exceeding \$10,000 shall, be a part of the selection process.

(G) On award, all contracts for professional services shall be formalized in a written agreement signed by the applicant and the purchasing agency.

(Ord. passed 2-16-99)

§ 39.09 SPECIAL PURCHASE PROCEDURES.

(A) The competitive bidding process shall not apply to the following special purchases:

- (1) Purchases required in the event of an emergency which necessitates the immediate purchase of goods or services.
- (2) Purchases where the cost of the service is fixed by law.
- (3) Purchases which can be procured through cooperative intergovernmental purchase agreements with other government jurisdictions.
- (4) Sole source procurements, where the proposed purchase is manufactured by only one company.
- (5) Purchases from a sole manufacturer, where it is determined to be more efficient and economical to reduce costs of maintenance of additional repair parts, supplies, or services.
- (6) Purchases which have been preceded by competitive sealed bidding, where no

responsible bidder has responded and the purchase is in an amount less than \$5,000.

(7) Purchases under extensions of contracts when the same or lower price is extended for another year or part of a year.

(8) Purchases under intergovernmental agreements or contracts which require use of procurement procedures inconsistent with the provisions of this section.

(9) The city may contract directly with not-for-profit organizations to provide services required by the city or to be provided on behalf of the city. Such direct contracting shall be under the Committee on Community Improvement.

(B) Within ten working days of any such purchase, the purchasing agency shall give written notice of any such purchase to the Finance Officer.

(C) Where the purchase is of insurance, a prequalification process may be undertaken inviting agents and brokers to submit a questionnaire regarding their experience and qualifications. Only firms which are, in the city's sole determination, qualified shall be selected for the bid process. Each firm selected to bid shall submit common specifications to their assigned insurance carriers. Awards for such purchases shall be made to the lowest responsible bidder. The city may retain the agency and/or carrier receiving the contract for a period not to exceed three years, reasonable premium increases notwithstanding, before any renewal of this bidding procedure.

(D) Where the purchase is of data processing services, self-insured claims administration services or worker's compensation administration services, the city may retain the successful bidder for a period not to exceed three years, reasonable fee increases notwithstanding, before any renewal of the bidding procedure is required. In determining the lowest responsible bidder within the bidding procedure, the city may take into consideration any costs of conversion involved.

(Ord. passed 2-16-99; Am. Ord. passed 6-1-99)

§ 39.10 APPROVAL REQUIRED.

The purchase of the following goods and services shall be made exclusively by, or with the written waiver of, the specified agency, department, or officer:

(A) Insurance and actuarial services by the Finance Office;

(B) Legal services by the City Solicitor; and

(C) Data processing products or services by the Information Services Department. This section shall not apply to School Department purchases of data processing instructional items used exclusively for educational purposes.

(Ord. passed 2-16-99)

§ 39.11 CONFLICT OF INTEREST; DISQUALIFICATION.

No employee, officer or agent of the city shall participate in the award or administration of a contract in which he or any member of his immediate family has an interest. No such employee, officer, or agent shall participate in the award or administration of a contract with any person, firm, partnership, or corporation in which he or any member of his immediate family is an officer or employee or is about to become an officer or employee.

(Ord. passed 2-16-99)

§ 39.12 PECUNIARY BENEFIT.

No such employee, officer, or agent of the city who is participating or is about to participate in the award or administration of a contract shall either solicit or accept any kickback, contingent payment, or other pecuniary benefit from any firm, person, partnership, or corporation involved in such contract. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PECUNIARY BENEFIT. Any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

(Ord. passed 2-16-99)

§ 39.13 DISCLOSURE.

Any employee, officer, or agent of the city disqualified from participation in the award or administration of any contract pursuant to the provisions of § 35.105 of this chapter shall make full written disclosure of the circumstance of disqualification to the Finance Officer. In the case of the Finance Officer, disclosure shall be made to the Mayor.

(Ord. passed 2-16-99)

§ 39.14 SAVINGS PROVISION.

Nothing in this subchapter is intended to invalidate or in any way limit the term of any contract or special service agreement lawfully made prior to the effective date of this subchapter.

(Ord. passed 2-16-99)